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): May 22, 1998

Stratus Properties Inc.
(Exact name of registrant as specified in its charter)

Delaware	0-19989	72-1211572
(State or other jurisdiction of incorporation or organization)	(Commission File Number)	(IRS Employer Identification Number)

98 San Jacinto Blvd., Suite 220
Austin, Texas 78701
(Address of principal executive offices)

(512) 478-5788
(Registrant's telephone number, including area code)

FM Properties Inc.
98 San Jacinto Blvd. Suite 220
Austin, Texas 78701
(Former name or former address, if changes since last report)

Item 5. Other Events.

On May 22, 1998, Stratus Properties Inc. (STRS) and Olympus Real Estate Corporation (Olympus), an affiliate of Hicks, Muse, Tate & Furst Incorporated, formed their previously announced strategic alliance to develop certain of STRS' existing properties and to pursue new real estate acquisition and development opportunities. Under the terms of the agreements, Olympus made an approximately $10 million investment in a STRS mandatory redeemable preferred stock, provided a $10 million convertible debt financing facility to a wholly owned subsidiary of STRS and made available up to $50 million of capital for direct investment in joint STRS/Olympus projects.

Pursuant to a Securities Purchase Agreement, a copy of which is filed as Exhibit 99.2 to this report, STRS issued to Olympus 1,712,328 shares of Series B Participating Preferred Stock (the Preferred Stock) at a stated value of $5.84 per share, the average closing price of a share of STRS common stock on the Nasdaq Stock Market during the 30 trading days ending March 2, 1998, the date of STRS/Olympus letter of intent for the transaction. The designations, preferences and rights of the Preferred Stock are set forth in a Certificate of Designations, a copy of which is filed as Exhibit 4.1 to this report. In addition, Olympus has certain rights with respect to the Preferred Stock and certain other rights, including the right to designate for nomination 20 percent of STRS' board membership, as set forth in an Investors Rights Agreement, a copy of which is filed as Exhibit 4.2 to this report.

The shares of Preferred Stock are redeemable (i) at the

option of Olympus at any time after May 22, 2001 for an amount per share approximating the economic benefit that would have accrued had the shares been converted into common stock on a one-to-one basis and sold (the "common stock equivalent value") or (ii) at the option of STRS after May 22, 2003 (and in no event later than May 22, 2004 at which time the Preferred Stock is required to be redeemed) for the greater of their common stock equivalent value or their par value per share, plus accrued and unpaid dividends, if any. STRS has an option to satisfy the redemption with shares of its common stock, subject to certain limitations. The Preferred Stock will share any dividends or distributions ratably with the STRS common stock, which currently pays no dividend. STRS used the proceeds from the sale of the Preferred Stock to repay debt.

The $10 million convertible debt facility is available to a wholly owned subsidiary of STRS in whole or in part through May 22, 2004, to finance STRS' equity investment in new STRS/Olympus joint venture opportunities in properties not currently owned by STRS. A copy of the Loan Agreement is filed as Exhibit 4.3 to this report. The interest rate on the convertible debt will be 12 percent per year, with interest payable quarterly or accrued. Outstanding principal under the facility will be convertible at any time into STRS common stock at a conversion price of $7.31, which is 125 percent of the average closing price of STRS common stock on the Nasdaq Stock Market during the 30 trading days ending March 2, 1998. If not converted into common stock, the convertible debt will be repaid by May 22, 2004. If the combination of interest at 12 percent and the value of the conversion right does not provide Olympus with at least a 15 percent annual return on the convertible debt, STRS will pay Olympus additional interest upon retirement of the convertible debt in an amount necessary to yield a 15 percent annual return. The convertible debt is secured by a pledge of STRS' interests in investments in new STRS/Olympus joint venture opportunities financed with the proceeds of the convertible debt and is non-recourse to STRS.

Pursuant to a Master Agreement, a copy of which is filed as Exhibit 99.1 to this report, Olympus has made available through May 22, 2001, up to $50 million for its share of capital for direct investments in STRS/Olympus joint acquisition and development activities. Through May 22, 2001, STRS has provided Olympus a right of first refusal to participate for no less than a 50 percent interest in all new acquisition and development projects on properties not presently owned by STRS, as well as development opportunities on existing properties in which STRS seeks third-party equity participation.

Item 7. Financial Statements and Exhibits.

(c) Exhibit 4.1 Certificate of Designations of the Series B Participating Preferred Stock of Stratus Properties Inc.

Exhibit 4.2 Investors Rights Agreement, dated as of May 22, 1998, by and between Stratus Properties Inc. and Oly/Stratus Equities, L.P.

Exhibit 4.3 Loan Agreement, dated as of May 22, 1998, by and among Stratus Ventures I Borrower L.L.C., Oly Lender Stratus, L.P. and Stratus Properties Inc.

Exhibit 99.1 Master Agreement, dated as of May 22, 1998, by and among Oly Fund II GP Investments, L.P., Oly Lender Stratus, L.P., Oly/Stratus Equities, L.P., Stratus Properties Inc. and Stratus Ventures I Borrower L.L.C.

Exhibit 99.2 Securities Purchase Agreement, dated as of May 22, 1998, by and between Oly/Stratus Equities, L.P. and Stratus Properties Inc.

Exhibit 99.3 Press Release issued jointly by STRS and Olympus on May 26, 1998.

SIGNATURE

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.

Stratus Properties Inc.

By: /s/ C. Donald Whitmire

C. Donald Whitmire
Controller-Financial Reporting
(Authorized signatory)

Date: June 03, 1998

Stratus Properties Inc.

EXHIBIT INDEX

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Exhibit 4.1

CERTIFICATE OF DESIGNATIONS OF THE POWERS, PREFERENCES AND RELATIVE, PARTICIPATING, OPTIONAL AND OTHER SPECIAL RIGHTS OF SERIES B PARTICIPATING PREFERRED STOCK AND QUALIFICATIONS, LIMITATIONS AND RESTRICTIONS THEREOF

Pursuant to Section 151 of the
General Corporation Law of the State of Delaware

Stratus Properties Inc. (formerly known as FM Properties Inc.) (the "Corporation"), a corporation organized and existing under the General Corporation Law of the State of Delaware, does hereby certify that, pursuant to authority conferred upon the board of directors of the Corporation (the "Board of Directors") by its Amended and Restated Certificate of Incorporation, as amended (hereinafter referred to as the "Certificate of Incorporation"), and pursuant to the provisions of Section 151 of the General Corporation Law of the State of Delaware, said Board of Directors, by unanimous vote at a meeting duly called and held on May 14, 1998, duly approved and adopted the following resolution (the "Resolution"):

> RESOLVED, that, pursuant to the authority vested in the Board of Directors by its Certificate of Incorporation, the Board of Directors does hereby create, authorize and provide for the issuance of Series B Participating Preferred Stock, par value $0.01 per share, with a stated value of $5.84 per share, consisting initially of 1,712,328 shares, having the designations, preferences, relative, participating, optional and other special rights and the qualifications, limitations and restrictions thereof that are set forth in the Certificate of Incorporation and in this Resolution as follows:

(a) Designation. There is hereby created out of the authorized and unissued shares of Preferred Stock of the Corporation a class of Preferred Stock designated as the "Series B Participating Preferred Stock." The number of shares constituting such class shall be 1,712,328, and are referred to as the "Series B Participating Preferred Stock." The liquidation preference of the Series B Participating Preferred Stock shall be $5.84 per share (the "Stated Value").

(b) Rank. The Series B Participating Preferred Stock shall, with respect to dividends and distributions upon liquidation, winding-up and dissolution of the Corporation, rank (i) on parity with respect to dividends and senior with respect to liquidation, winding-up and dissolution of the Corporation with the common stock, $0.01 par value ("Common Stock") of the Corporation; (ii) senior to all other classes of Capital Stock of the Corporation (other than the Common Stock) or series of Preferred Stock of the Corporation hereafter created the terms of which expressly provide that it ranks junior to the Series B Participating Preferred Stock as to dividends and distributions upon liquidation, winding-up and dissolution of the Corporation (collectively referred to as "Junior Stock"); (iii) on a parity with any class of Capital Stock of the Corporation or series of Preferred Stock of the Corporation hereafter created the terms of which expressly provide that such class or series will rank on a parity with the Series B Participating Preferred Stock as to dividends

and distributions upon liquidation, winding-up and dissolution (collectively referred to as "Parity Stock"); (iv) junior with respect to dividends and on parity with respect to distributions upon liquidation, winding-up and dissolution of the Corporation with any class of Capital Stock of the Corporation or series of Preferred Stock of the Corporation hereafter created the terms of which expressly provide that such class or series will rank senior to the Series B Participating Preferred Stock as to dividends and on parity with the Series B Participating Preferred Stock as to distributions upon liquidation, winding-up and dissolution of the Corporation (collectively referred to as "Senior Dividend Stock"); and (v) junior to each class of Capital Stock of the Corporation or series of Preferred Stock of the Corporation hereafter created that has been approved by the Holders in accordance with paragraph (f)(ii)(a) hereof and the terms of which do not expressly provide that such class or series will rank junior to, or on a parity with, the Series B Participating Preferred Stock as to both dividends and distributions upon liquidation, winding-up and dissolution of the Company (collectively referred to as "Senior Stock").

(c) Dividends.

i) Beginning on the Issue Date, the Holders of the outstanding shares of Series B Participating Preferred Stock shall be entitled to participate ratably with the outstanding shares of Common Stock as if all shares were of a single class, in all distributions in the form of dividends in cash, stock or other property, when, as and if declared by the Board of Directors out of funds legally available therefor, with each share of Series B Participating Preferred Stock entitling the Holder thereof to receive a distribution amount equal to (A) the distribution amount per share on the Common Stock, multiplied by (B) a fraction, the numerator of which is the Stated Value and the denominator of which is the Conversion Price (as it may be adjusted and in effect from time to time as provided in paragraph (h) hereof); provided, that the Series B Participating Preferred Stock shall not be entitled to participate in any dividend reinvestment plan that the Corporation may from time to time adopt for the benefit of the holders of the Common Stock. Any such dividend shall be payable to Holders of record of the Series B Participating Preferred Stock as they appear on the stock books of the Corporation on the record date of such dividend when, as and if declared by the Board of Directors.

ii) All dividends paid with respect to shares of the Series B Participating Preferred Stock pursuant to paragraph (c)(i) shall be paid pro rata to the Holders entitled thereto.

iii) Nothing herein contained shall in any way or under any circumstances be construed or deemed to require the Board of Directors to declare, or the Corporation to pay or set apart for payment, any dividends on shares of the Series B Participating Preferred Stock at any time.

iv) No dividends shall be declared, paid or set apart for payment by the Corporation on the Common Stock, any Parity Stock or any Junior Stock unless such dividends have been or contemporaneously are declared and paid in full, or, if payable in cash, a sum in cash has been set apart sufficient for such payment, on the Series B Participating Preferred Stock. If any dividends are not so paid, all dividends declared upon shares of the Series B Participating Preferred Stock and the Common Stock and any Parity Stock shall be declared pro rata so that the amount of dividends declared per share on the Series B Participating

Preferred Stock and such Common Stock and Parity Stock shall in all cases bear to each other the same ratio that accrued and unpaid dividends per share on the Series B Participating Preferred Stock and such Common Stock and Parity Stock bear to each other. Accrued and unpaid dividends shall not bear interest.

v) a) Holders of shares of the Series B Participating Preferred Stock shall be entitled to receive the dividends provided for in paragraph (c)(i) hereof in preference to and in priority over any such dividends upon any of the Junior Stock.

b) So long as any share of the Series B Participating Preferred Stock is outstanding, the Corporation shall not make any payment on account of, or set apart for payment money for a sinking or other similar fund for, the purchase, redemption or other retirement of, any of the Common Stock or Junior Stock or any warrants, rights, calls or options exercisable for or convertible into any of the Common Stock or Junior Stock whether in cash, obligations or shares of the Corporation or other property, and shall not permit any corporation or other entity directly or indirectly controlled by the Corporation to purchase or redeem any of the Common Stock or Junior Stock or any such warrants, rights, calls or options; provided, however, that this paragraph (c)(v)(b) shall not prohibit the Corporation from purchasing, redeeming, or making any payment on account of shares of Common Stock or warrants, rights, calls or options exercisable for or convertible into shares of Common Stock in an aggregate amount not to exceed 20% of the fully-diluted number of shares of Common Stock (including shares of Common Stock issuable upon exercise or conversion of any outstanding warrants, rights, calls or options exercisable for or convertible into shares of Common Stock) of the Corporation as of the Issue Date.

(d) Liquidation Preference.

i) In the event of any voluntary or involuntary liquidation, dissolution or winding up of the affairs of the Corporation, the Holders of shares of Series B Participating Preferred Stock then outstanding shall be entitled to be paid out of the assets of the Corporation available for distribution to its stockholders an amount in cash equal to the Stated Value for each share outstanding, plus an amount in cash equal to accrued and unpaid dividends thereon to the date fixed for liquidation, dissolution or winding up before any payment shall be made or any assets distributed to the holders of any of the Common Stock or Junior Stock of the Corporation. After (i) the payment in full of the liquidation payments payable to the Holders of outstanding shares of Series B Participating Preferred Stock any Parity Stock and any Senior Dividend Stock, and (ii) the payment in full to the holders of the shares of Common Stock of an amount equal to (A) the liquidation payment per share to the Holders of Series B Participating Preferred Stock, multiplied by (B) a fraction, the numerator of which is the Stated Value and the denominator of which is the Conversion Price (as it may be adjusted and in effect from time to time as provided in paragraph (h) hereof) for each share of Common Stock, then the Series B Participating Preferred Stock and any Parity Stock shall be entitled to participate ratably in an amount per share equal to (A) the Stated Value, divided by, (B) the Conversion Price, the result of which is multiplied by (C) the amount per share of any additional distributions on the Common Stock, in any such distribution of cash, property or other assets of the Corporation then remaining for distribution to the stockholders of the Corporation. If the assets of the

Corporation are not sufficient to pay in full the liquidation payments payable to the Holders of outstanding shares of the Series B Participating Preferred Stock, all Parity Stock and all Senior Dividend Stock, then the holders of all such shares shall share equally and ratably in such distribution of assets in proportion to the full liquidation preference, including, with respect to the Series B Participating Preferred Stock and any Parity Stock, all accrued and unpaid dividends to which each is entitled.

ii) For the purposes of this paragraph (d), the sale, conveyance, exchange or transfer (for cash, shares of stock, securities or other consideration) of all or substantially all of the property or assets of the Corporation, the recapitalization or change in the outstanding shares of Common Stock, or the consolidation or merger of the Corporation with or into one or more entities shall not be deemed to be a liquidation, dissolution or winding up of the affairs of the Corporation.

(e) Redemption.

i) Optional Redemption. a) The Corporation may, at its option, redeem at any time on or after May 22, 2003, subject to contractual and other restrictions with respect thereto and to the extent of funds legally available therefor, in whole or in part, in the manner provided for in paragraph (e)(iii) hereof, any or all of the shares of the Series B Participating Preferred Stock, at a Redemption Price per share equal to the greater of (i) the Stated Value plus, without duplication, an amount equal to all accumulated and unpaid dividends per share, or (ii) the Participation Price.

b) In the event of a redemption pursuant to paragraph (e)(i)(a) hereof of only a portion of the then outstanding shares of the Series B Participating Preferred Stock, the Corporation shall effect such redemption on a pro rata basis according to the number of shares held by each Holder of the Series B Participating Preferred Stock.

ii) Mandatory Redemption. On May 22, 2004, the Corporation shall redeem, to the extent of funds legally available therefor, in the manner provided for in paragraph (e)(iii) hereof, and each Holder shall surrender or redemption, all of the shares of the Series B Participating Preferred Stock then outstanding at a Redemption Price per share equal to the greater of (i) the Stated Value, plus, without duplication, an amount equal to all accumulated and unpaid dividends per share, or (ii) the Participation Price.

iii) Procedures for Redemption. a) At least thirty (30) days and not more than sixty (60) days prior to the date fixed for any redemption of the Series B Participating Preferred Stock, written notice (the "Redemption Notice") shall be given by first class mail, postage prepaid, to each Holder of record on the record date fixed for such redemption of the Series B Participating Preferred Stock at such Holder's address as it appears on the stock books of the Corporation, provided that no failure to give such notice nor any deficiency therein shall affect the validity of the procedure for the redemption of any shares of Series B Participating Preferred Stock to be redeemed except as to the Holder or Holders to whom the Corporation has failed to give said notice or except as to the Holder or Holders whose notice was defective. The Redemption Notice shall state:

(1) whether the redemption is pursuant to

paragraph (e)(i)(a) or (e)(ii) hereof;

(2) the Redemption Price (or method of calculation thereof, if not then fixed);

(3) whether all or less than all the outstanding shares of the Series B Participating Preferred Stock are to be redeemed and the total number of shares of the Series B Participating Preferred Stock being redeemed;

(4) the Redemption Date; and

(5) that the Holder is to surrender to the Corporation, in the manner, at the place or places and at the price designated, his or its certificate or certificates representing the shares of Series B Participating Preferred Stock to be redeemed.

b) Each Holder of Series B Participating Preferred Stock called for redemption shall surrender the certificate or certificates representing such shares of Series B Participating Preferred Stock to the Corporation, duly endorsed (or otherwise in proper form for transfer, as determined by the Corporation), in the manner and at the place designated in the Redemption Notice, and on the Redemption Date, against delivery of such certificate or certificates to the Corporation, the full Redemption Price for such shares shall, except as provided in paragraphs (iv)(b) or (c) below, be payable in cash to the Person whose name appears on such certificate or certificates as the owner thereof, and each surrendered certificate shall be canceled and retired. In the event that less than all of the shares represented by any such certificate are redeemed, a new certificate shall be issued representing the unredeemed shares.

c) On and after the Redemption Date, unless the Corporation defaults in the payment in full of the applicable Redemption Price, all rights of the Holders of redeemed shares shall terminate with respect thereto on the Redemption Date, other than the right to receive the redemption price thereon without interest.

iv) Payment of Redemption Price. a) Except as otherwise set forth in paragraphs (b) or (c) of this paragraph (iv), the Redemption Price for the shares of Series B Participating Preferred Stock shall be paid in cash to the Holders of record of the shares of Series B Participating Preferred Stock shown on the records of the Corporation as of the Redemption Date.

b) Notwithstanding the foregoing paragraph (iv)(a) or anything in this Certificate of Designations to the contrary, the Corporation may, upon written notice to the Holders of record of the Series B Participating Preferred Stock at least three Business Days prior to the Redemption Date, elect to pay all or a portion of the Redemption Price for the Series B Participating Preferred Stock pursuant to paragraphs (i) or (ii) above in Common Stock of the Corporation, by delivering that number of whole shares of Common Stock of the Corporation to each Holder of the Series B Participating Preferred Stock equal to (x) the Redemption Price per share, divided by (y) the average Common Stock Price for the ten trading days immediately preceding the Redemption Date, the result of which is then multiplied by (z) the number of shares of Series B Participating Preferred Stock to be so redeemed from such Holder by payment in shares of Common Stock, and, in the case of any fractional share of Common Stock, rounded to the nearest number of whole shares; provided, however, that the Corporation may only pay

any Redemption Price in shares of Common Stock if, as of the Redemption Date, the Common Stock is then registered under Section 12(b) or 12(g) under the Securities Exchange Act of 1934, as amended (the "Exchange Act"), and listed on the New York Stock Exchange or the American Stock Exchange, or approved for quotation on the Nasdaq Stock Market's National Market System.

c) In the event of a redemption of any or all of the outstanding shares of Series B Participating Preferred Stock for which the Corporation has elected to pay the Redemption Price in whole or in part in cash, the Corporation may, by written notice to the Holders of record of the Series B Participating Preferred Stock at least three Business Days prior to the Redemption Date, elect to defer the Redemption Date, solely with respect to the portion of shares of Series B Participating Preferred Stock that the Corporation elects to redeem in cash, for a period of no longer than 180 days from the date of such written notice for the purpose of effecting a public offering (the "Offering") by the Corporation of shares of Common Stock; provided that (i) the Corporation shall file with the Securities and Exchange Commission within 45 days of the date of such Redemption Notice a registration statement (the "Registration Statement") under the Securities Act of 1933, as amended (the "Securities Act") with respect to such Offering, (ii) the Corporation shall designate the use of proceeds to the Corporation from such Offering in the prospectus forming a part of such Registration Statement for the redemption in cash of the Series B Participating Preferred Stock in accordance with this Certificate of Designations, and (iii) the Offering shall be consummated and the Redemption Date fixed on or prior to 180 days following the date of such Redemption Notice. In the event that (x) the Registration Statement is not filed within 45 days following the date of such Redemption Notice or (y) the Offering is not consummated within 180 days following the date of such Redemption Notice (each of (x) and (y) being referred to herein as a "Deferral Default"), the Corporation shall, within ten Business Days after such Deferral Default, pay the Redemption Price on all shares of Series B Participating Preferred Stock called for redemption in accordance with paragraph (iv)(a) above.

d) The obligation of the Corporation to pay the Redemption Price in cash pursuant to paragraph (e)(i)(a) or (e)(ii) shall be fully subordinated to the Corporation's Senior Debt in accordance with the provisions of this paragraph (e)(iv)(d). The Corporation may not make any cash payments on account of the Series B Participating Preferred Stock if there shall have occurred and be continuing a default in the payment of principal of (or premium, if any) or interest on any Specified Senior Debt, the payment of commitment or facility fees, letter of credit fees or agency fees under any Specified Senior Debt, or payments with respect to letter of credit reimbursement arrangements with one or more lenders under the credit or other agreement evidencing any Specified Senior Debt when due (a "Senior Payment Default"). Following the occurrence of an event of default (other than a Senior Payment Default) under any Specified Senior Debt permitting the holders of such Specified Senior Debt (or a trustee or agent on behalf thereof) to accelerate the maturity thereof, or the occurrence of an event which with the passage of time or the giving of notice, or both, could become such an event of default (a "Senior Nonmonetary Default") and, in each case, following the giving of notice thereof to Parent in accordance with the terms governing the relevant

Specified Senior Debt (a "Blockage Notice"), Parent may not make any payments on account of the Payment Obligations for a period (a "Blockage Period") commencing on the date the Corporation receives the Blockage Notice, and ending on the earliest of (i) 179 days after such date, (ii) the date, if any, on which such Senior Nonmonetary Default is waived or otherwise cured and (iii) the date, if any, on which such Blockage Period shall have been terminated by written notice to the Corporation from the holders of the relevant Specified Senior Debt (or a trustee or agent on behalf thereof).

Upon any payment or distribution of assets of any kind or character, whether in cash, property or securities, to creditors upon any dissolution or winding up or total or partial liquidation or reorganization of the Corporation, whether voluntary or involuntary, or upon bankruptcy, insolvency, receivership or other proceedings, then and in such event, all principal, premium (if any) and interest and all other amounts due or to become due upon all the Corporation's Senior Debt shall first be paid in full before the Holders of the Series B Participating Preferred Stock shall be entitled to receive or retain any assets so paid or distributed in respect of the Series B Participating Preferred Stock; and, upon any such dissolution or winding up or liquidation or reorganization, any payment or distribution of assets of any kind or character, whether in cash, property or securities, that the Holders of the Series B Participating Preferred Stock would be entitled to, except as otherwise provided herein, shall be paid by the Corporation or by any receiver, trustee in bankruptcy, liquidating trustee, agent or other person making such payment or distributions, or by the Holders of the Series B Participating Preferred Stock if received by them, directly and ratably to the holders of the Corporation's Senior Debt, to the extent necessary to pay in full all the Corporation's Senior Debt, after giving effect to any concurrent payment or distribution to or for the holders of the Corporation's Senior Debt, before any payment or distribution is made to the Holders of the Series B Participating Preferred Stock.

Each Holder of shares of Series B Participating Preferred Stock hereby irrevocably authorizes and empowers (without imposing any obligation on) the holders of the Corporation's Senior Debt (or any trustee or agent on behalf thereof), under the circumstances set forth in the immediately preceding paragraph, to demand, sue for, collect and receive every such payment or distribution described therein and give acquittance therefor, to file claims and proofs of claims in any statutory or nonstatutory proceeding, to vote such the Corporation's Senior Debt holder's ratable share of the full amount of the Redemption Price on the Series B Participating Preferred Stock in its sole discretion in connection with any resolution, arrangement, plan of reorganization, compromise, settlement or extension and to take all such other action (including, without limitation, the right to participate in any composition of creditors and the right to vote such the Corporation's Senior Debt holders' ratable share of the Redemption Price at creditors' meetings for the election of trustees, acceptances of plans and otherwise), in the name of the Holder of the Series B Participating Preferred Stock, as such the Corporation's Senior Debt holder or its representative may deem necessary or desirable for the enforcement of these subordination provisions.

If any payment or distribution of assets of any

kind or character, whether in cash, property or securities, shall be collected or received by any Holder of the Series B Participating Preferred Stock and such holder shall not be permitted under the terms of this instrument to receive or retain such payment or distribution, such holder shall forthwith turn over the same to the Corporation's Senior Debt holders for their ratable benefit in the form received (except for the endorsement or the assignment of such holder when necessary) and, until so turned over, the same shall be held in trust by such holder as the property and for the ratable benefit of the Corporation's Senior Debt holders.

(f) Voting Rights.

i) The Holders of Series B Participating Preferred Stock, except as otherwise required under Delaware law or as set forth in paragraph (ii) below, shall not be entitled or permitted to vote on any matter required or permitted to be voted upon by the stockholders of the Corporation.

ii) a) So long as any shares of the Series B Participating Preferred Stock are outstanding, the Corporation shall not authorize any class of Senior Stock without the affirmative vote or consent of Holders of at least two-thirds of the outstanding shares of Series B Participating Preferred Stock, voting or consenting, as the case may be, as one class, given in person or by proxy, either in writing or by resolution adopted at an annual or special meeting.

b) So long as any shares of the Series B Participating Preferred Stock are outstanding, the Corporation shall not amend its Certificate of Incorporation or this Certificate of Designations so as to affect adversely the specified rights, preferences, privileges or voting rights of the Series B Participating Preferred Stock without the affirmative vote or consent of Holders of at least two-thirds of the issued and outstanding shares of Series B Participating Preferred Stock, voting or consenting, as the case may be, as one class, given in person or by proxy, either in writing or by resolution adopted at an annual or special meeting.

iii) In any case in which the Holders of Series B Participating Preferred Stock shall be entitled to vote pursuant to this paragraph (f) or pursuant to Delaware law, each Holder of Series B Participating Preferred Stock entitled to vote with respect to such matter shall be entitled to one vote for each share of Series B Participating Preferred Stock held.

(g) Recapitalization, Merger, Consolidation or Transfer of Assets.

i) In the event that the Corporation shall, in a single transaction or series of related transactions, recapitalize, reclassify or change the outstanding shares of Common Stock (other than a change in par value or from par value to no par value or from no par value to par value, or as a result of a subdivision or combination provided for in paragraph (h) hereof), consolidate or merge with or into, or sell, assign, transfer, lease, convey or otherwise dispose of all or substantially all of its assets to, another Person or adopt a plan of liquidation, the Holders of shares of Series B Participating Preferred Stock shall be entitled, upon written notice to the Corporation within 15 Business Days of the public announcement of such transaction, to require the Corporation to exchange or cause to be exchanged all or a portion of the shares of

Series B Participating Preferred Stock held by such Holder for such securities, cash and other property receivable upon the consummation of such transaction by the holders of shares of Common Stock, as if each share of Series B Participating Preferred Stock so exchanged was that number of shares of Common Stock (rounded to the nearest whole share) equal to (x) the Stated Value, divided by (y) the Conversion Price, and outstanding immediately prior to the consummation of the recapitalization, reclassification, merger, consolidation, asset transfer or liquidation.

ii) In the event that the Corporation shall, in a single transaction or series of related transactions, recapitalize, reclassify or change the outstanding shares of Common Stock (other than a change in par value or from par value to no par value or from no par value to par value, or as a result of a subdivision or combination provided for in paragraph (h) hereof), consolidate or merge with or into, or sell, assign, transfer, lease, convey or otherwise dispose of all or substantially all of its assets to, another Person or adopt a plan of liquidation, and any Holder of shares of Series B Participating Preferred Stock shall not have elected to exchange all shares of Series B Participating Preferred Stock in accordance with paragraph (g)(i) above, then the Corporation shall not consummate such recapitalization, reclassification, merger, consolidation, asset sale or liquidation unless: (A) either (1) the Corporation is the surviving or continuing Person or (2) the Person (if other than the Corporation) formed by such recapitalization, consolidation or into which the Corporation is merged or the Person that acquires by conveyance, transfer or lease the properties and assets of the Corporation substantially as an entirety or in the case of a plan of liquidation, the Person to which assets of the Corporation have been transferred, shall be a corporation, partnership, limited liability company or trust organized and existing under the laws of the United States or any State thereof or the District of Columbia; (B) the Series B Participating Preferred Stock shall be converted into or exchanged for and shall become shares of such successor, transferee or resulting Person, having in respect of such successor, transferee or resulting Person the same powers, preferences and relative, participating, optional or other special rights and the qualifications, limitations or restrictions thereon, that the Series B Participating Preferred Stock had immediately prior to such transaction; and (C) the Corporation has delivered to the Holders of the Series B Participating Preferred Stock prior to the consummation of the proposed transaction an Officers' Certificate and an Opinion of Counsel, each stating that such recapitalization, reclassification, merger, consolidation, asset transfer or liquidation complies with the terms hereof and that all conditions precedent herein relating to such transaction have been satisfied.

iii) For purposes of the foregoing provisions of this paragraph (g), the transfer (by lease, assignment, sale or otherwise, in a single transaction or series of related transactions) of all or substantially all of the properties or assets of one or more Subsidiaries of the Corporation, the Capital Stock of which constitutes all or substantially all of the properties and assets of the Corporation shall be deemed to be the transfer of all or substantially all of the properties and assets of the Corporation.

(h) Adjustment of Common Stock and Conversion Price. In case the Corporation shall (i) pay a dividend or make a distribution solely in shares of Common Stock, (ii)

subdivide its outstanding shares of Common Stock into a greater number of shares of Common Stock, or (iii) combine its outstanding shares of Common Stock into a smaller number of shares of Common Stock, then concurrently with the effectiveness of each such event, the Conversion Price in effect immediately prior thereto shall be adjusted by multiplying the Conversion Price in effect immediately prior to such adjustment by a fraction of which the numerator shall be the number of shares of Common Stock outstanding immediately prior to such adjustment and the denominator shall be the number of shares of Common Stock outstanding immediately following such adjustment. Such adjustment to the Conversion Price shall be made each time any such action described in this paragraph (h) shall occur.

(i) Reissuance of Series B Participating Preferred Stock. Shares of Series B Participating Preferred Stock that have been issued and reacquired in any manner, including shares purchased or redeemed or exchanged, shall (upon compliance with any applicable provisions of the laws of Delaware) have the status of authorized and unissued shares of Preferred Stock undesignated as to series and may be redesignated and reissued as part of any series of Preferred Stock, provided that any issuance of such shares as Series B Participating Preferred Stock must be in compliance with the terms hereof.

(j) Business Day. If any payment, redemption or exchange shall be required by the terms hereof to be made on a day that is not a Business Day, such payment, redemption or exchange shall be made on the immediately succeeding Business Day.

(k) Definitions. As used in this Certificate of Designations, the following terms shall have the following meanings (with terms defined in the singular having comparable meanings when used in the plural and vice versa), unless the context otherwise requires:

"Blockage Notice" shall have the meaning ascribed to it in paragraph (e)(iv)(d) hereof.

"Blockage Period" shall have the meaning ascribed to it in paragraph (e)(iv)(d) hereof.

"Board of Directors" shall have the meaning ascribed to it in the first paragraph of this Resolution.

"Business Day" means any day except a Saturday, a Sunday, or any day on which banking institutions in New York, New York are required or authorized by law or other governmental action to be closed.

"Capital Stock" means (i) with respect to any Person that is a corporation, any and all shares, interests, participations or other equivalents (however designated) of capital stock of such Person and (ii) with respect to any Person that is not a corporation, any and all partnership or other equity interests of such Person.

"Common Stock" shall mean the common stock, $0.01 par value, of the Corporation, and any other security into which such shares of Common Stock may be hereinafter converted or exchanged.

"Common Stock Price" shall mean the last per share sale price of the Common Stock of the Corporation as reported by the Nasdaq National Market (or any national stock exchange or interdealer quotation system on which the Common Stock is then listed or quoted).

"Conversion Price" shall mean initially $5.84, subject to adjustment as set forth in paragraph (h)

hereof.

"Debt" of any Person means at any date, without duplication, (i) all obligations of such Person for borrowed money, (ii) all obligations of such Person evidenced by bonds, debentures, notes or other similar instruments, (iii) all obligations of such Person to pay the deferred purchase price of property or services, except accounts payable arising in the ordinary course of business, (iv) all obligations of such person as lessee under capital leases, (v) all Debt of others secured by any mortgage, lien, pledge, charge, security interest or encumbrance of any kind on any asset of such Person and (vi) all Debt of others guaranteed by such Person.

"Holder" means a holder of shares of Series B Participating Preferred Stock as reflected in the stock books of the Corporation.

"Issue Date" means the date of original issuance of the Series B Participating Preferred Stock.

"Junior Stock" shall have the meaning ascribed to it in paragraph (b) hereof.

"Officers' Certificate" means a certificate signed by two officers or by an officer and either an Assistant Treasurer or an Assistant Secretary of the Corporation which certificate shall include a statement that, in the opinion of such signers all conditions precedent to be performed by the Corporation prior to the taking of any proposed action have been taken. In addition, such certificate shall include (i) a statement that the signatories have read the relevant covenant or condition, (ii) a brief statement of the nature and scope of such examination or investigation upon which the statements are based, (iii) a statement that, in the opinion of such signatories, they have made such examination or investigation as is reasonably necessary to express an informed opinion and (iv) a statement as to whether or not, in the opinion of the signatories, such relevant conditions or covenants have been complied with.

"Opinion of Counsel" means an opinion of counsel that, in such counsel's opinion, all conditions precedent to be performed by the Corporation prior to the taking of any proposed action have been taken. Such opinion shall also include the statements called for in the second sentence under "Officers' Certificate".

"Parity Stock" shall have the meaning ascribed to it in paragraph (b) hereof.

"Participation Price" shall mean, as of any Redemption Date, an amount per share of the Series B Participating Preferred Stock equal to (i) the Stated Value, divided by (ii) the Conversion Price, the result of which is then multiplied by (iii) the average of the Common Stock Price for the ten trading days immediately prior to the Redemption Date; provided, however, that if all or any portion of the Participation Price is paid by the Corporation in cash, the amount of the Participation Price to be paid to the Holders in cash shall be an amount equal to the Participation Price multiplied by 0.95.

"Person" means an individual, partnership, corporation, limited liability company, unincorporated organization, trust or joint venture, or a governmental agency or political subdivision thereof.

"Preferred Stock" of any Person means any Capital

Stock of such Person that has preferential rights to any other Capital Stock of such Person with respect to dividends or redemptions or upon liquidation.

"Redemption Date", with respect to any shares of Series B Participating Preferred Stock, means the date on which such shares of Series B Participating Preferred Stock are redeemed by the Corporation.

"Redemption Notice" shall have the meaning ascribed to it in paragraph (e) hereof.

"Redemption Price" shall mean, as of any Redemption Date, the redemption price required to be paid on shares the Series B Participating Preferred Stock as calculated in accordance with paragraphs (e)(i)(a) or (e)(ii) hereof, as applicable.

"Senior Debt" means all Debt of the Corporation, including principal, premium, if any, and interest on (including interest accruing after the filing of a petition initiating any proceeding pursuant to any bankruptcy law, whether or not allowed) or other amounts payable in connection with any Debt of the Corporation, whether presently outstanding or subsequently created, incurred or assumed (other than any other Debt of the Corporation which expressly provides by its terms or the terms of the instrument creating or evidencing it that it is subordinate in right of payment in any respect to any other Debt of the Corporation). Notwithstanding the foregoing, the Corporation's Senior Debt shall not include any Debt of the Corporation to any subsidiary of the Corporation or any liability for federal, state or local taxes owed by the Corporation.

"Senior Dividend Stock" shall have the meaning ascribed to it in paragraph (b) hereof.

"Senior Nonmonetary Default" shall have the meaning ascribed to it in paragraph (e)(iv)(d) hereof.

"Senior Payment Default" shall have the meaning ascribed to it in paragraph (e)(iv)(d) hereof.

"Senior Stock" shall have the meaning ascribed to it in paragraph (b) hereof.

"Specified Senior Debt" means (i) all Senior Debt under the Corporation's primary bank credit facility existing from time to time and (ii) any other issue of Senior Debt having a principal amount of at least $10,000,000.

"Stated Value" shall have the meaning ascribed to it in paragraph (a) hereof.

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IN WITNESS WHEREOF, Stratus Properties Inc., has caused this Certificate to be signed on its behalf by a duly authorized officer this 22nd day of May, 1998.

STRATUS PROPERTIES INC.
(formerly known as FM Properties Inc.)

By: /s/ William H. Armstrong,III

Name: William H. Armstrong,III
Title: President and Chief Executive

Officer

Exhibit 4.2

INVESTORS RIGHTS AGREEMENT

THIS INVESTORS RIGHTS AGREEMENT (this "Agreement") dated as of May 22, 1998, is entered into by and among Stratus Properties Inc., a Delaware corporation (including its successors, the "Company"), and Oly/Stratus Equities, L.P., a Texas limited partnership ("Olympus").

NOW, THEREFORE, for and in consideration of the premises, mutual covenants, and agreements contained herein and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties hereto agree as follows:

ARTICLE I
DEFINITIONS

I.1 Definitions. As used in this Agreement, the following terms shall have the following meanings:

"Advice" shall have the meaning set forth in Section 3.6.

"Affiliate" shall mean, with respect to any Person, any Person who, directly or indirectly, controls, is controlled by, or is under common control with that Person. For purposes of this definition, "control" and "controlled by" and when used with respect to any Person shall mean 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, but shall not be deemed to include, solely because of the ownership of the voting securities of such Person, any Person who owns not more than 25% of the ordinary voting power for the election of directors or other governing body of such Person.

"Agreement" shall mean this Agreement, as may be amended from time to time.

"Blockage Notice" shall have the meaning set forth in Section 2.2.2(e).

"Blockage Period" shall have the meaning set forth in Section 2.2.2(e).

"Board Designee" shall have the meaning set forth in Section 2.1.1.

"Board of Directors" shall mean the board of directors of the Company.

"Business Day" shall mean a day that is not a Legal Holiday.

"Change of Control" shall mean the occurrence of one or more of the following events: a majority of the Board of Directors shall consist of persons who are not Continuing Directors, or the acquisition by any person or group, of related persons for

purposes of Section 13(d) of the Exchange Act (other than Olympus, any of its Affiliates, or any of their respective officers or directors), of the power, directly or indirectly, to vote or direct the voting of securities having more than 30% of the ordinary voting power for the election of directors of the Company.

"Common Stock" shall mean shares of the Common Stock, $0.01 par value per share, of the Company, and any capital

stock into which such Common Stock thereafter may be changed.

"Common Stock Equivalents" shall mean, without duplication with any other Common Stock or Common Stock Equivalents, any rights, warrants, options, convertible securities or indebtedness, exchangeable securities or indebtedness, or other rights, exercisable for or convertible or exchangeable into, directly or indirectly, Common Stock and securities convertible or exchangeable into Common Stock, whether at the time of issuance or upon the passage of time or the occurrence of some future event.

"Company" shall have the meaning set forth in the introductory paragraph hereof.

"Continuing Director" shall mean, as of the date of determination, any person who (i) was a member of the Board of Directors on the date hereof, (ii) was nominated for election or elected to the Board of Directors with the affirmative vote of a majority of the Continuing Directors who were members of the Board of Directors at the time of such nomination or election, or (iii) is a Board Designee.

"Deferral Default" shall have the meaning set forth in Section 2.2.2(d).

"Deferral Offering" shall have the meaning set forth in Section 2.2.2(d).

"Deferral Registration Statement" shall have the meaning set forth in Section 2.2.2(d).

"Demand Registration" shall have the meaning set forth in Section 3.1.1.

"Demand Request" shall have the meaning set forth in Section 3.1.1.

"Exchange Act" shall mean the Securities Exchange Act of 1934, as amended, and the rules and regulations promulgated by the SEC thereunder.

"Excluded Registration" shall mean a registration under the Securities Act of (i) securities pursuant to one or more Demand Registrations pursuant to Section 3.1, (ii) securities registered on Form S-8 or any similar successor form, (iii) securities registered to effect the acquisition of or combination with another Person, and (iv) securities registered on Form S-4 or any similar successor form solely to effect any exchange of outstanding securities.

"Holder" shall mean (i) Oly/Stratus Equities, L.P. (ii) any direct or indirect transferee of any such securityholder who shall become a party to this Agreement and

entitled to the benefits of Articles III, IV, and V pursuant to Section 7.4 hereof.

"Inspectors" shall have the meaning set forth in Section 3.5(ix).

"Legal Holiday" shall have the meaning set forth in Section 7.2.

"Material Adverse Effect" shall have the meaning set forth in Section 3.1.4.

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

"Observer Designee" shall have the meaning set forth in Section 2.1.2.

"Olympus" shall mean Oly/Stratus Equities, L.P., a Texas limited partnership, and its permitted successors and assigns.

"Optional Repurchase Event" shall have the meaning set forth in Section 2.2.2(a).

"Person" or "person" shall mean any individual, corporation, partnership, limited liability company, joint venture, association, joint-stock company, trust, unincorporated organization, or government or other agency or political subdivision thereof.

"Preferred Stock" shall mean shares of the Series B Participating Preferred Stock, $0.01 par value per share, of the Company, and any capital stock (other than Common Stock of the Company) into which such Preferred Stock thereafter may be changed.

"Records" shall have the meaning set forth in Section 3.5(ix).

"Redemption Notice" shall have the meaning set forth in Section 2.2.2.

"Redemption Price" shall have the meaning set forth in Section 2.2.2.

"Registrable Shares" shall mean at any time (a) the Preferred Stock and (b) any shares of Common Stock issued or issuable pursuant to (i) the redemption of the Preferred Stock or (ii) the conversion of the obligations outstanding under that certain Loan Agreement (as it may be amended and in effect from time to time, the "Loan Agreement"), dated on or about the date hereof, among the Company, Stratus Ventures I Borrower L.L.C., and Oly Lender Stratus, L.P., in each case owned by the Holders, whether owned on the date hereof or acquired hereafter; provided, however, that Registrable Shares shall not include any shares (x) the sale of which has been registered pursuant to the Securities Act and which shares have been sold pursuant to such registration or (y) which have been sold pursuant to Rule 144 of the SEC under the Securities Act.

"Registration Expenses" shall have the meaning set forth in Section 3.6.

"Regulation D" shall mean Regulation D promulgated under the Securities Act by the SEC.

"Repurchase Notice" shall have the meaning set forth in Section 2.2.2(b).

"Repurchase Price" shall have the meaning set forth in Section 2.2.2(a).

"Requesting Holder" shall have the meaning set forth in Section 3.1.1(a).

"Required Filing Date" shall have the meaning set forth in Section 3.1.1(b).

"Required Holders" shall mean Holders who then own beneficially more than 50% of the aggregate number of shares of Preferred Stock subject to this Agreement.

"SEC" shall mean the Securities and Exchange Commission.

"Securities" shall mean the Preferred Stock and Common Stock issued or issuable pursuant to (i) the redemption of the Preferred Stock or (ii) the conversion of the obligations outstanding under the Loan Agreement.

"Securities Act" shall mean the Securities Act of 1933, as amended, and the rules and regulations promulgated by the SEC thereunder.

"Seller Affiliates" shall have the meaning set forth in Section 3.8.1.

"Senior Dividend Stock" shall mean each class of capital stock of the Company or series of preferred stock of the Company created on or after the date hereof the terms of which expressly provide that such class or series will rank senior to the Preferred Stock as to dividends and on parity with the Preferred Stock as to distributions upon liquidation, winding-up and dissolution of the Company.

"Senior Nonmonetary Default" shall have the meaning set forth in Section 2.2.2(e).

"Senior Payment Default" shall have the meaning set forth in Section 2.2.2(e).

"Subsidiary" of any Person shall mean any Person a majority of whose outstanding shares of capital stock or other equity interests with voting power, under ordinary circumstances, to elect directors or other governing body of such Person, is at the time, directly or indirectly, owned by such Person, by one or more subsidiaries of such Person or by such Person and one or more subsidiaries of such Person.

"Suspension Notice" shall have the meaning set forth in Section 3.6.

"Transfer" shall mean any disposition of any Security or any interest therein that would constitute a "sale" thereof within the meaning of the Securities Act.

"Transfer Notice" shall have the meaning set forth in Section 5.3.

I.2 Rules of Construction. Unless the context otherwise requires, all references to "Articles" and "Sections" contained in this Agreement are, unless specifically indicated otherwise, references to articles, sections, subsections and paragraphs of this Agreement. Whenever in this Agreement the singular number is used, the same shall include the plural where appropriate (and vice versa), and words of any gender shall include each other gender where appropriate. As used in this Agreement, the following words or phrases shall have the meanings indicated: (i) "or" shall mean "and/or"; (ii) "day" shall mean a calendar day; (iii) "including" or "include" shall mean "including without limitation"; and (iv) "law" or "laws" shall mean statutes, regulations, rules, judicial orders and other legal pronouncements having the effect of law. Whenever any provision of this Agreement requires or permits a party to take or omit to take any action, or make or omit to make any decision, unless the context clearly requires otherwise, such provision shall be interpreted to authorize an action taken or omitted, or a decision made or omitted, by the party acting alone and in good faith.

1.3 Other Definitions. Certain capitalized terms used in this Agreement, but not defined in this Article I, shall have the meanings set forth elsewhere in this Agreement.

ARTICLE II
MANAGEMENT OF THE COMPANY AND CERTAIN ACTIVITIES

II.1 Board of Directors.

II.1.1 Board Representation. Subject to Section 2.1.4, for so long as at least 50.1% of the shares of the

Preferred Stock outstanding on the date hereof remain outstanding and beneficially owned by Olympus, Olympus shall have the exclusive right to appoint the greater of one director or 20% of the members of the Board of Directors. Subject to Sections 2.1.3 and 2.1.4, on or promptly after the date Olympus provides the Company with written notice of Olympus' election to designate Board Designees pursuant to this Section 2.1.1, the Company agrees to take all action required to cause the Board of Directors to at all times include those Board Designees elected by Olympus.

II.1.2 Observer Rights. For so long as at least 50.1% of the shares of Preferred Stock outstanding on the date hereof remain outstanding and beneficially owned by Olympus, if Olympus fails to designate directors or terminates its right to designate directors pursuant to Section 2.1.1, Olympus shall be entitled to, in lieu of designating such Board Designees, have two designees attend all meetings of the Board of Directors and each committee thereof (each, an "Observer Designee"). In the event that Olympus has designated any Observer Designee pursuant to this Section 2.1.2, Olympus and each such Observer Designee shall enter into a confidentiality agreement with the Company in form and substance reasonably satisfactory to each of Olympus and the Company. No Observer Designee shall be entitled to vote on any matters presented to the Board of Directors or to such committees. The Company shall give written notice, including any proposed agenda to Olympus, of each such meeting at the same time and in the same manner as the members of the Board of Directors (or any committee thereof) receive notice of such meetings. Olympus shall be entitled to receive all written materials and

other
information given to the directors of the Company in connection with such meetings at the same time such materials are given to such directors. If the Company proposes to take action by written consent in lieu of a meeting of the Board of Directors, the Company shall (i) orally notify Olympus 72 hours in advance of the date such consent is first proposed to be executed by the directors of the Company, and (ii) give a copy of such consent to Olympus at the same time as such materials are given to the members of the Board of Directors, which in any case shall be at least 24 hours prior to the date such consent is first proposed to be executed by the directors of the Company. Notwithstanding the foregoing provisions of this Section 2.1.2, the Company reserves the right not to provide information or to exclude Observer Designees from portions of any meeting of the Board of Directors (or committee thereof) if (i) delivery of such information or attendance at such portion of any such meeting by the Observer Designees would, in the opinion of counsel to the Company, cause the Company to lose or waive the attorney-client privilege between the Company and its counsel, or (ii) the subject matter of such information or agenda of such portion of any meeting is reasonably related to consideration of the Company's relationship with Olympus or any of its Affiliates or any transaction between the Company or any of its Affiliates on the one hand, and Olympus or any of its Affiliates on the other hand, and the delivery of such information or attendance at any such portion of such meeting would, in the opinion of counsel of the Company, adversely affect the ability of the Company or its Affiliate to negotiate in good-faith and on an arms-length basis with Olympus or its Affiliate. In the event the Company withholds information or excludes an Observer Designee from a portion of any meeting of the Board of Directors pursuant to the preceding sentence, the Company shall provide Olympus with a written statement identifying the subject matter of the information withheld or discussion from which the Observer Designee was excluded (which notice need not include any description of the legal advice rendered during such meeting).

II.1.3 Vacancies. If, prior to his election to the Board of Directors pursuant to Section 2.1.1, any Board Designee shall be unable or unwilling to serve as a director of the Company, Olympus shall be entitled to nominate a replacement who shall then be a Board Designee for purposes of this Section 2.1. If, following an election to the Board of Directors pursuant to Section 2.1.1, any Board Designee shall resign, be removed at the request of Olympus or be unable to serve for any reason prior to the expiration of his term as a director of the Company, Olympus shall, within 30 days of such event, notify the Board of Directors in writing of a replacement Board Designee, and the Company shall take all such actions as it is legally empowered to take at the earlier of the next regularly scheduled regular meeting of the Board of Directors or a special meeting thereof to be called not later than 30 days after receipt of notice of the replacement Board Designee for the purpose of filling positions on the Board of Directors or in any written consent executed in lieu of such a meeting to cause the replacement Board Designee to be elected to the Board of Directors. If Olympus requests that any Board Designee designated by Olympus be removed as a director (with or without cause) by written notice thereof to the Company, then the Company shall take all actions permitted by its certificate of incorporation and the General Corporation Law of the State of Delaware that are necessary to effect such removal upon such request.

II.1.4 Termination of Rights. The right of Olympus to designate directors under

Section 2.1.1 shall terminate
upon the first to occur of (i) the termination or expiration of this Agreement or this Article II, (ii) such time as Olympus elects in writing to terminate its rights under this Article II, or (iii) such time as Olympus ceases to beneficially own at least 50.1% of the shares of the Preferred Stock outstanding on the date of this Agreement.

II.1.5 Costs and Expenses. The Company shall reimburse any Board Designee or Observer Designee for all reasonable out-of-pocket expenses incurred in connection with his participation in meetings of the Board of Directors (and committees thereof) of the Company on the same basis as it reimburses its other directors.

II.2 Transactions Permitting Optional Redemption.

II.2.1 The Company agrees that, if the Company takes any of the following actions, directly or indirectly, without the prior written consent of Olympus, then Olympus shall have the repurchase option described in Section 2.2.2:

(a) redeem, purchase, or otherwise acquire in one transaction or in a series of related transactions an amount of Common Stock greater than 10% of the outstanding Common Stock;

(b) voluntarily liquidate or dissolve;

(c) grant or issue any capital stock, stock option, or stock purchase right (other than those granted to all holders of Common Stock on a pro rata basis) to any officer, director, or employee of the Company or any of its Subsidiaries, other than (i) for compensation in amounts reasonably consistent with past practice, (ii) Common Stock issued upon exercise or conversion of any stock options outstanding on the date of this Agreement, or (iii) Common Stock or stock options granted in compliance with this clause (c);

(d) file a petition under any bankruptcy or insolvency law, fail to contest the filing of any involuntary petition under any bankruptcy or insolvency law, or admit in writing its bankruptcy, insolvency, or

general inability to pay its debts;

(e) merge or consolidate with or into any person;

(f) sell, lease, exchange, or otherwise transfer, in one transaction or in a series of related transactions, assets of the Company having a book value equal to or greater than 25% of the Company's total assets as of the date of the most recently prepared audited balance sheet of the Company other than in the ordinary course of business;

(g) permit the occurrence of a Change of Control;

(h) issue any shares of Senior Dividend Stock in excess of $10,000,000 aggregate liquidation preference; or

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(i) agree to do any transaction prohibited by subsections (a) through (h) of this Section 2.2.1 without such prior written consent.

II.2.2 (a) So long as any shares of Preferred Stock remain outstanding and at least one owned by Olympus, upon the occurrence of the occurrence of any of the following actions or events (each, an "Optional Repurchase Event"), Olympus shall be entitled, at its option, by written notice to the Company in accordance with paragraph (b) of this Section 2.2.2, to require the Company to repurchase all or a portion of the shares of Preferred Stock held by Olympus, as follows:

i) at any time following the date of this Agreement, in the case of an occurrence of any of the events or actions specified in subsections (a), (c), (e), (f), (g) or (i) of Section 2.2.1 without the prior written consent of Olympus, Olympus shall have the right to require the Company to repurchase all or a portion of the shares of Preferred Stock then held by Olympus in an amount equal to $5.84 per share, plus an amount equal to accrued and unpaid dividends thereon, if any, to the date of repurchase;

ii) at any time on or after May 22, 2001, Olympus shall have the right to require the Company to repurchase all or a portion of the shares of Preferred Stock then held by Olympus in an amount equal to the Participation Price (as defined in the Certificate of Designations governing the Preferred Stock) per share; and

iii) at any time following the date of this Agreement, in the case of an occurrence of any of the events or actions specified in subsections (b), (d) or (h) of Section 2.2.1 without the prior written consent of Olympus, Olympus shall have the right to require the Company to repurchase all or a portion of the shares of Preferred Stock then held by Olympus in an amount equal to the greater of (A) $5.84 per share, plus an amount equal to accrued and unpaid dividends thereon, if any, to the date of repurchase, and (B) the Participation Price per share (the amount to be paid to Olympus to repurchase the Preferred Stock described in subsections i), ii) and iii) of this Section 2.2.2(a) is referred to collectively herein as the "Repurchase Price").

(b) To exercise the optional repurchase right described in this Section 2.2.2, Olympus shall deliver to the Company (if an Optional Repurchase Event described in subsections i) or iii) of Section 2.2.2(a) above, not later than 30 days after Olympus receives notice of such occurrence) a notice of repurchase ("Repurchase Notice"), accompanied by the certificate for the shares of Preferred Stock to be repurchased. Any Repurchase Notice shall state (1) that Olympus is requiring the Company to repurchase

shares of Preferred Stock pursuant to this Section 2.2.2, (2) the Optional Repurchase Event giving rise to such repurchase, and (3) the number of shares of Preferred Stock held by Olympus which are to be repurchased. In no event later than 20 Business Days following receipt of such Repurchase Notice by the Company, the Company shall, except as provided in Section 2.2.2(c) and (d) below, make payment in immediately available funds of the Repurchase Price to Olympus as specified in the Repurchase Notice. Upon

repurchase of less than all of the shares of Preferred Stock evidenced by a particular certificate, promptly but in no event later than ten Business Days after surrender of such certificate to the Company, the Company shall issue a replacement certificate for the shares of Preferred Stock that have not been repurchased.

(c) Notwithstanding anything in this Agreement to the contrary, the Company may, upon written notice to Olympus within seventeen Business Days of the date of the Repurchase Notice, elect to pay all or a portion of the Repurchase Price for the Preferred Stock in Common Stock, by delivering that number of whole shares of Common Stock to Olympus equal to (x) the Repurchase Price per share, divided by (y) the average Common Stock Price for the ten trading days immediately preceding the Repurchase Notice, the result of which is then multiplied by (z) the number of shares of Preferred Stock to be so repurchased from Olympus by payment in shares of Common Stock, and, in the case of any fractional share of Common Stock, rounded to the nearest number of whole shares; provided, however, that the Company may only pay any Repurchase Price in shares of Common Stock if, as of the date of delivery of such shares of Common Stock, the Common Stock is then registered under Section 12(b) or 12(g) under the Exchange Act and listed on the New York Stock Exchange or the American Stock Exchange, or approved for quotation on the Nasdaq Stock Market's National Market System.

(d) In the event of a repurchase of any or all of the outstanding shares of Preferred Stock for which the Company has elected to pay the Repurchase Price in whole or in part in cash, the Company may, by written notice to Olympus within eight Business Days of the Repurchase Notice, elect to defer the repurchase of the Preferred Stock set forth in the Repurchase Notice, solely with respect to the portion of shares of Preferred Stock that the Company elects to redeem in cash, for a period of no longer than 180 days from the date of such written notice for the purpose of effecting a public offering (the "Deferral Offering") by the Company of shares of Common Stock; provided that (i) the Company shall file with the SEC within 45 days of the date of such Repurchase Notice a registration statement (the "Deferral Registration Statement") under the Securities Act with respect to such Deferral Offering, (ii) the Company shall designate the use of proceeds to the Company from such Deferral Offering in the prospectus forming a part of such Deferral Registration Statement for the repurchase in cash of the Preferred Stock in accordance with this Agreement, and (iii) the Deferral Offering shall be consummated and the date fixed for repurchase on or prior to 180 days following the date of such Repurchase Notice. In the event that (x) the Deferral Registration Statement is not filed within 45 days following the date of such Repurchase Notice or (y) the Deferral Offering is not consummated within 180 days following the date of such Repurchase Notice (each of (x) and (y) being referred to herein as a "Deferral Default"), the Company shall, within ten Business Days after such Deferral Default, pay the Repurchase Price on all shares of Preferred Stock called for repurchase in accordance with this Section 2.2.2.

(e) The obligation of the Company to pay the Repurchase Price in cash pursuant to an Optional Repurchase Event shall be fully subordinated to the Company's Senior

Debt (as such term is defined in the Loan Agreement) in accordance with the provisions of this Section 2.2.2(e). The Company may not make any cash payments on

account of the
Preferred Stock if there shall have occurred and be continuing a default in the payment of principal of (or premium, if any) or interest on any Specified Senior Debt (as such term is defined in the Loan Agreement), the payment of commitment or facility fees, letter of credit fees or agency fees under any Specified Senior Debt, or payments with respect to letter of credit reimbursement arrangements with one or more lenders under the credit or other agreement evidencing any Specified Senior Debt when due (a "Senior Payment Default"). Following the occurrence of an event of default (other than a Senior Payment Default) under any Specified Senior Debt permitting the holders of such Specified Senior Debt (or a trustee or agent on behalf thereof) to accelerate the maturity thereof, or the occurrence of an event which with the passage of time or the giving of notice, or both, could become such an event of default (a "Senior Nonmonetary Default") and, in each case, following the giving of notice thereof to Parent in accordance with the terms governing the relevant Specified Senior Debt (a "Blockage Notice"), Parent may not make any payments on account of the Payment Obligations for a period (a "Blockage Period") commencing on the date the Company receives the Blockage Notice, and ending on the earliest of (i) 179 days after such date, (ii) the date, if any, on which such Senior Nonmonetary Default is waived or otherwise cured and (iii) the date, if any, on which such Blockage Period shall have been terminated by written notice to the Company from the holders of the relevant Specified Senior Debt (or a trustee or agent on behalf thereof).

Upon any payment or distribution of assets of any kind or character, whether in cash, property or securities, to creditors upon any dissolution or winding up or total or partial liquidation or reorganization of the Company, whether voluntary or involuntary, or upon bankruptcy, insolvency, receivership or other proceedings, then and in such event, all principal, premium (if any) and interest and all other amounts due or to become due upon all the Company's Senior Debt shall first be paid in full before the holders of the Preferred Stock shall be entitled to receive or retain any assets so paid or distributed in respect of the Preferred Stock; and, upon any such dissolution or winding up or liquidation or reorganization, any payment or distribution of assets of any kind or character, whether in cash, property or securities, that the holders of the Preferred Stock would be entitled to, except as otherwise provided herein, shall be paid by the Company or by any receiver, trustee in bankruptcy, liquidating trustee, agent or other person making such payment or distributions, or by the holders of the Preferred Stock if received by them, directly and ratably to the holders of the Company's Senior Debt, to the extent necessary to pay in full all the Company's Senior Debt, after giving effect to any concurrent payment or distribution to or for the holders of the Company's Senior Debt, before any payment or distribution is made to the holders of the Preferred Stock.

Each holder of shares of Preferred Stock hereby irrevocably authorizes and empowers (without imposing any obligation on) the holders of the Company's Senior Debt (or any trustee or agent on behalf thereof), under the circumstances set forth in the immediately preceding paragraph, to demand, sue for, collect and receive every such payment or distribution described therein and give acquittance therefor, to file claims and proofs of claims in any statutory or nonstatutory proceeding, to vote such the Company's Senior Debt holder's ratable share of the full amount of the Redemption Price on the Preferred Stock in its sole discretion in connection with any resolution, arrangement, plan of reorganization, compromise, settlement

or extension and to take all such other action

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(including, without limitation, the right to participate in any composition of creditors and the right to vote such the Company's Senior Debt holders' ratable share of the Redemption Price at creditors' meetings for the election of trustees, acceptances of plans and otherwise), in the name of the holder of the Preferred Stock, as such the Company's Senior Debt holder or its representative may deem necessary or desirable for the enforcement of these subordination provisions.

If any payment or distribution of assets of any kind or character, whether in cash, property or securities, shall be collected or received by any holder of the Preferred Stock and such holder shall not be permitted under the terms of this instrument to receive or retain such payment or distribution, such holder shall forthwith turn over the same to the Company's Senior Debt holders for their ratable benefit in the form received (except for the endorsement or the assignment of such holder when necessary) and, until so turned over, the same shall be held in trust by such holder as the property and for the ratable benefit of the Company's Senior Debt holders.

II.3 Other Activities of Olympus; Fiduciary Duties. It is understood and accepted that Olympus and its Affiliates have interests in other business ventures which may be in conflict with the activities of the Company and its Subsidiaries and that, subject to applicable law, nothing in this Agreement shall limit the current or future business activities of Olympus whether or not such activities are competitive with those of the Company or its Subsidiaries. Nothing in this Agreement, express or implied, shall relieve any officer or director of the Company, any of its Subsidiaries, or Olympus, of any fiduciary or other duties or obligations they may have to the Company or the stockholders of the Company.

ARTICLE III
REGISTRATION RIGHTS

III.1 Demand Registration.

III.1.1 Request for Registration.

(a) Holders of an aggregate of at least twenty percent (20%) of the total number of Registrable Shares held by all Holders (the "Requesting Holders") may request the Company, in writing (a "Demand Request"), to effect the registration under the Securities Act of all or part of its Registrable Shares (a "Demand Registration"), provided, that the anticipated aggregate gross proceeds to the Requesting Holders therefrom would be at least $5,000,000.

(b) Each Demand Request shall specify the number of Registrable Shares proposed to be sold. Subject to Section 3.1.6, the Company shall file the Demand Registration within 90 days after receiving a Demand Request (the "Required Filing Date") and shall use its best efforts to cause the same to be declared effective by the SEC as promptly as practicable after such filing; provided, however, that the Company need effect only two Demand Registrations pursuant to Demand Requests made under Section 3.1.1(a); provided, further, that if any Registrable Shares requested to be registered pursuant to a Demand Request

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made under Section 3.1.1(a) are excluded from the applicable Demand Registration pursuant to Section 3.1.4, and such Demand Registration would otherwise be the last Demand

Registration permitted under this Section 3.1, the Requesting Holders shall have the right, with respect to each such exclusion, to request one additional Demand Registration under Section 3.1.1(a).

III.1.2 Effective Registration and Expenses. A registration will not count as a Demand Registration until it has become effective (unless the Requesting Holders withdraw all their Registrable Shares and the Company has performed its obligations hereunder in all material respects, in which case such demand will count as a Demand Registration unless the Requesting Holders pay all Registration Expenses in connection with such withdrawn registration); provided, however, that if, after it has become effective, an offering of Registrable Shares pursuant to a registration is interfered with by any stop order, injunction, or other order or requirement of the SEC or other governmental agency or court, such registration will be deemed not to have been effected and will not count as a Demand Registration.

III.1.3 Selection of Underwriters. If the offering of Registrable Shares pursuant to a Demand Registration is to be in the form of a "firm commitment" underwritten offering, the Requesting Holders shall select a nationally recognized investment banking firm or firms to manage the underwritten offering and provide timely notice to the Company of such selection; provided, however, that such selection shall be subject to the prior written consent of the Company, which shall not be unreasonably withheld or delayed.

III.1.4 Priority on Demand Registrations. If a Demand Registration is to be accomplished through an underwritten sale, no securities to be sold for the account of any Person (including the Company) other than a Requesting Holder shall be included in the Demand Registration unless the managing underwriter shall advise the Company and the Requesting Holders in writing that, in its opinion, the inclusion of such securities will not materially and adversely affect the price or success of the offering (a "Material Adverse Effect"). In the event the managing underwriter shall advise the Company and the Requesting Holders that even after exclusion of all securities of other Persons pursuant to the immediately preceding sentence, the amount of Registrable Shares proposed to be included in such Demand Registration by Requesting Holders is sufficiently large to cause a Material Adverse Effect, the Registrable Shares to be included in such Demand Registration shall equal the number of shares which the Requesting Holders are so advised can be sold in such offering without a Material Adverse Effect and such shares shall be allocated among the Requesting Holders pro rata based upon the number of Registrable Shares requested to be included in such registration by each such Requesting Holder. In the event, however, the managing underwriter advises the Company and such other Persons entitled to participate therein that a portion of their securities may be included in the Demand Registration without a Material Adverse Effect, those securities shall be included in such proportions as the Company and such other Persons may agree among themselves.

III.1.5 Rights of Nonrequesting Holders. Upon receipt of any Demand Request, the Company shall promptly (but in any event within 10 days) give written notice of such

proposed Demand Registration to all other Holders, who shall have the right, exercisable by written notice to the Company within 20 days of their receipt of the Company's notice, to elect to include in such Demand Registration such portion of their Registrable Shares as they may request. All Holders requesting to have their Registrable Shares included in a Demand Registration in accordance with the

preceding sentence shall be deemed to be "Requesting Holders" for purposes of this Section 3.1.

III.1.6 Deferral of Filing. Subject to Section 3.3, the Company may defer the filing (but not the preparation) of a registration statement required by Section 3.1 until a date not later than 75 days after the Required Filing Date (or, if longer, 75 days after the effective date of the registration statement contemplated by clause (ii) of this Section 3.1.6) if (i) at the time the Company receives the Demand Request, the Company or any of its Subsidiaries are engaged in confidential negotiations or other confidential business activities, disclosure of which would be required in such registration statement (but would not be required if such registration statement were not filed), and the Board of Directors determines in good faith that such disclosure would be materially detrimental to the Company and its stockholders, or (ii) prior to receiving the Demand Request, the Board of Directors had determined to effect a registered underwritten public offering of the Company's securities for the Company's account and the Company had taken substantial steps (including selecting a managing underwriter for such offering) and is proceeding with reasonable diligence to effect such offering. A deferral of the filing of a registration statement pursuant to this Section 3.1.6 shall be lifted, and the requested registration statement shall be filed forthwith, if, in the case of a deferral pursuant to clause (i) of the preceding sentence, the negotiations or other activities are disclosed or terminated, or, in the case of a deferral pursuant to clause (ii) of the preceding sentence, the proposed registration for the Company's account is abandoned. In order to defer the filing of a registration statement pursuant to this Section 3.1.6, the Company shall promptly (but in any event within 15 days), upon determining to seek such deferral, deliver to each Requesting Holder a certificate signed by an executive officer of the Company stating that the Company is deferring such filing pursuant to this Section 3.1.6 and a general statement of the reason for such deferral and an approximation of the anticipated delay. After receiving such certificate and (x), until 20 days after notification from the Company that the deferral has been lifted or (y) the end of the deferral period, whichever is earlier, the holders of a majority of the Registrable Shares held by the Requesting Holders may withdraw such Demand Request by giving notice to the Company. If withdrawn, the Demand Request shall be deemed not to have been made for all purposes of this Agreement. The Company may defer the filing of a particular registration statement pursuant to this Section 3.1.6 only once.

III.2 Piggyback Registrations.

III.2.1 Right to Piggyback. Each time the Company proposes to register any of its equity securities (other than pursuant to an Excluded Registration) under the Securities Act for sale to the public (whether for the account of the Company or the account of any securityholder of the Company) and the form of registration statement to be used permits the registration of Registrable Shares, the Company shall give prompt written notice to each Holder of Registrable Shares (which notice shall be given not less than 30 days prior to the effective date of the Company's registration statement), which notice shall offer each such Holder the opportunity to include any or all of its Registrable Shares in such registration statement, subject to the limitations contained in Section 3.2.2. Each Holder who desires to have its Registrable Shares included in such registration statement shall so advise the Company in writing (stating the number of shares desired to be registered) within 20 days after the date of such notice from the Company. Any Holder shall have the right to withdraw such Holder's request for inclusion of such

Holder's Registrable Shares in any registration statement pursuant to this Section 3.2.1 by giving written notice to the Company of such withdrawal not less than five days prior to the effective date of such registration statement. Subject to Section 3.2.2, the Company shall include in such registration statement all such Registrable Shares so requested to be included therein; provided, however, that the Company may at any time withdraw or cease proceeding with any such registration if it shall at the same time withdraw or cease proceeding with the registration of all other equity securities originally proposed to be registered.

III.2.2 Priority on Registrations.

(a) If the registration subject to this Section 3.2 is to be accomplished through an underwritten sale, the Registrable Shares requested to be included in the registration statement by any Holder differ from the type of securities proposed to be registered by the Company, and the managing underwriter advises the Company in writing that, in its reasonable opinion, due to such differences the inclusion of such Registrable Shares would cause a Material Adverse Effect, then (i) the number of such Holder's or Holders' Registrable Shares to be included in the registration statement shall be reduced to an amount which, in the reasonable judgment of the managing underwriter, would eliminate such Material Adverse Effect or (ii) if no such reduction would, in the reasonable judgment of the managing underwriter, eliminate such Material Adverse Effect, then the Company shall have the right to exclude all such Registrable Shares from such registration statement provided no other securities of such type are included and offered for the account of any other Person in such registration statement. Any partial reduction in the number of Registrable Shares to be included in the registration statement pursuant to clause (i) of the immediately preceding sentence shall be effected pro rata based on the ratio which such Holder's requested shares bears to the total number of shares requested to be included in such registration statement by all Persons (including Requesting Holders) who have requested (pursuant to contractual registration rights) to include, or who otherwise have been permitted to include, their shares in such registration statement.

(b) If the registration subject to this Section 3.2 is to be accomplished through an underwritten sale, the Registrable Shares requested to be included in the registration statement are of the same type as the securities being registered by the Company, and the managing underwriter advises the Company in writing that, in its reasonable opinion, the inclusion of such Registrable Shares would cause a Material Adverse Effect, the Company will be obligated to include in such registration statement, as to each Requesting Holder, only a portion of the shares such Holder has requested be registered equal to the ratio which such Holder's requested shares bears to the total number of shares requested to be included in such registration statement by all Persons (including Requesting Holders but excluding the Company) who have requested (pursuant to contractual registration rights) to include, or who have been permitted to include their shares, in such registration statement.

(c) If as a result of the provisions of this Section 3.2.2 any Holder shall not be entitled to include all Registrable Shares in a registration that such Holder has requested to be so included, such Holder may withdraw such Holder's request to include Registrable Shares in such registration statement.

III.3 Information by Requesting Holders.

(a) No Person may participate in any registration statement hereunder unless such Person (x) agrees to sell such Person's Registrable Shares on the basis provided in any underwriting arrangements approved by the Company and, if a Demand Registration, a majority of Registrable Shares held by the Requesting Holders and (y) completes and executes all questionnaires, powers of attorney, indemnities, underwriting agreements, and other documents, each in customary form, reasonably required under the terms of such underwriting arrangements; provided, however, that no such Person shall be required to make any representations or warranties in connection with any such registration other than representations and warranties as to (i) such Person's ownership of its Registrable Shares to be sold or transferred free and clear of all liens, claims, and encumbrances, (ii) such Person's power and authority to effect such transfer, and (iii) such matters pertaining to compliance with securities laws as may be reasonably requested; further provided, however, that the obligation of such Person to indemnify pursuant to any such underwriting arrangements shall be several, not joint and several, among such Persons selling Registrable Shares, and the liability of each such Person will be in proportion to, and provided further that such liability will be limited to, the net amount received by such Person from the sale of its Registrable Shares pursuant to such registration.

III.4 Holdback Agreement. Unless the managing underwriter otherwise agrees, each of the Company and the Holders agrees (and the Company agrees to use its best efforts to cause its Affiliates and other stockholders to agree) not to effect any public sale (except, if applicable, as part of such underwritten registration) or private offer or distribution of any Common Stock or Common Stock Equivalents during the 10 Business Days prior to the effectiveness under the Securities Act of any underwritten registration and during such period after the effectiveness under the Securities Act of any underwritten registration (not to exceed 120 days) as the managing underwriter may require.

III.5 Registration Procedures. Whenever any Holder has requested that any Registrable Shares be registered pursuant to this Agreement, the Company will use its best efforts to effect the registration and the sale of such Registrable Shares in accordance with the intended method of disposition thereof, and pursuant thereto the Company will as expeditiously as possible:

(i) prepare and file with the SEC a registration statement on any appropriate form under the Securities Act with respect to such Registrable Shares and use its best efforts to cause such registration statement to become effective;

(ii) prepare and file with the SEC such amendments, post-effective amendments, and supplements to such registration statement and the prospectus used in connection therewith as may be necessary to keep such registration statement effective for a period of not less than 60 days (or such lesser period as is necessary for the underwriters in an underwritten offering to sell unsold allotments) and comply with the provisions of the Securities Act with respect to the disposition of all securities covered by such registration statement during such period in accordance with the intended methods of disposition by the sellers thereof set forth in such registration statement;

(iii) furnish to each seller of Registrable Shares and the underwriters of the securities being registered such number of copies of such registration statement, each

amendment and supplement thereto, the prospectus included in such registration statement (including each preliminary prospectus), any documents incorporated by reference therein, and such other documents as such seller or underwriters may reasonably request in order to facilitate the disposition of the Registrable Shares owned by such seller or the sale of such securities by such underwriters (it being understood that, subject to Section 3.6, the requirements of the Securities Act and applicable state securities laws, the Company consents to the use of the prospectus and any amendment or supplement thereto by each seller and the underwriters in connection with the offering and sale of the Registrable Shares covered by the registration statement of which such prospectus, amendment, or supplement is a part);

(iv) use its best efforts to register or qualify such Registrable Shares under the securities or blue sky laws of such jurisdictions as the managing underwriter reasonably requests (or, in the event the registration statement does not relate to an underwritten offering, as the holders of a majority of such Registrable Shares may reasonably request); use its best efforts to keep each such registration or qualification (or exemption therefrom) effective during the period in which such registration statement is required to be kept effective; and do any and all other acts and things which may be reasonably necessary or

advisable to enable
each seller to consummate the disposition of the Registrable Shares owned by such seller in such jurisdictions (provided, however, that the Company will not be required to (A) qualify generally to do business in any jurisdiction where it would not otherwise be required to qualify but for this subparagraph (iv) or (B) consent to general service of process in any such jurisdiction);

(v) promptly notify each seller and each underwriter and (if requested by any such Person) confirm such notice in writing (A) when a prospectus or any prospectus supplement or post-effective amendment has been filed and, with respect to a registration statement or any post-effective amendment, when the same has become effective, (B) of the issuance by any state securities or other regulatory authority of any order suspending the qualification or exemption from qualification of any of the Registrable Shares under state securities or "blue sky" laws or the initiation of any proceedings for that purpose, and (C) of the happening of any event which makes any statement made in an effective registration statement or related prospectus untrue or which requires the making of any changes in such registration statement, prospectus, or documents so that they will not contain any untrue statement of a material fact or omit to state any material fact required to be stated therein or necessary to make the statements therein not misleading, and, as promptly as practicable thereafter, prepare and file with the SEC and furnish a supplement or amendment to such prospectus so that, as thereafter deliverable to the purchasers of such Registrable Shares, such prospectus will not contain any untrue statement of a material fact or omit a material fact necessary to make the statements therein, in light of the circumstances under which they were made, not misleading;

(vi) make generally available to the Company's securityholders an earnings statement satisfying the provisions of Section 11(a) of the Securities Act no later than 30 days after the end of the 12-month period beginning with the first day of the Company's first fiscal quarter commencing after the effective date of a registration statement, which earnings statement shall cover such 12-month period, and which requirement will be deemed to be satisfied if the Company timely files complete and accurate information on Forms 10-Q, 10-K, and 8-K under the Exchange Act and otherwise complies with Rule 158 under the

Securities Act;

(vii) if requested by the managing underwriter or any seller promptly incorporate in a prospectus supplement or post-effective amendment such information as the managing underwriter or any seller reasonably requests to be included therein, including with respect to the Registrable Shares being sold by such seller, the purchase price being paid therefor by the underwriters and with respect to any other terms of the underwritten offering of the Registrable Shares to be sold in such offering, and promptly make all required filings of such prospectus supplement or post-effective amendment;

(viii) cooperate with the sellers and the managing underwriter to facilitate the timely preparation and delivery of certificates (which shall not bear any restrictive legends unless required under applicable law) representing securities sold under any registration statement, and enable such securities to be in such denominations and registered in such names as the managing underwriter or such sellers may request and keep available and make available to the Company's transfer agent prior to the effectiveness of such registration statement a supply of such certificates;

(ix) promptly make available for inspection by any seller, any underwriter participating in any disposition pursuant to any registration statement, and any attorney, accountant, or other agent or representative retained by any such seller or underwriter (collectively, the "Inspectors"), all financial and other records, pertinent corporate documents and properties of the Company (collectively, the "Records"), as shall be reasonably necessary to enable them to exercise their due diligence responsibility, and cause the Company's officers, directors, and employees to supply all information requested by any such Inspector in connection with such registration statement; provided, however, that, unless the disclosure of such Records is necessary to avoid or correct a misstatement or omission in the registration statement or the release of such Records is ordered pursuant to a subpoena or other order from a court of competent jurisdiction, the Company shall not be required to provide any information under this subparagraph (ix) if (A) the Company believes, after consultation with counsel for the Company, that to do so would cause the Company to forfeit an attorney-client privilege that was applicable to such information or (B) if either (1) the Company has requested and been granted from the SEC confidential treatment of such information contained in any filing with the SEC or documents provided supplementally or otherwise or (2) the Company reasonably determines in good faith that such Records are confidential and so notifies the Inspectors in writing unless prior to furnishing any such information with respect to clause (A) or (B) of this subparagraph (ix) such Holder of Registrable Shares requesting such information agrees to enter into a confidentiality agreement in customary form and subject to customary exceptions; and further provided, however, that each Holder of Registrable Shares agrees that it will, upon learning that disclosure of such Records is sought in a court of competent jurisdiction, give notice to the Company and allow the Company, at its expense, to undertake appropriate action and to prevent disclosure of the Records deemed confidential;

(x) furnish to each seller and underwriter a signed counterpart of (A) an opinion or opinions of counsel to the Company, and (B) a comfort letter or comfort letters from the Company's independent public accountants, each in customary form and covering such matters of the type customarily covered by opinions or comfort letters, as the case may be, as the sellers or managing underwriter reasonably requests;

(xi) cause the Registrable Shares included in any

registration statement to be (A) listed on each securities exchange, if any, on which similar securities issued by the Company are then listed, or if none are then listed, on which the managing underwriter for such offering shall request, or (B) authorized to be quoted and/or listed (to the extent applicable) on the NASD Automated Quotation System or The Nasdaq Stock Market's National Market if the Registrable Shares so qualify;

(xii) provide a CUSIP number for the Registrable Shares included in any registration statement not later than the effective date of such registration statement;

(xiii) cooperate with each seller and each underwriter participating in the disposition of such Registrable Shares and their respective counsel in connection with any filings required to be made with the NASD;

(xiv) during the period when the prospectus is required to be delivered under the

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Securities Act, promptly
file all documents required to be filed with the SEC pursuant to Sections 13(a), 13(c), 14, or 15(d) of the Exchange Act;

(xv) notify each underwriter and seller of Registrable Shares promptly of any request by the SEC for the amending or supplementing of such registration statement or prospectus or for additional information;

(xvi) prepare and file with the SEC promptly any amendments or supplements to such registration statement or prospectus which, in the opinion of counsel for the Company or the managing underwriter, is required in connection with the distribution of the Registrable Shares;

(xvii) enter into such agreements (including underwriting agreements in the managing underwriter's customary form) as are customary in connection with an underwritten registration; and

(xviii) advise each seller of such Registrable Shares, promptly after it shall receive notice or obtain knowledge thereof, of the issuance of any stop order by the SEC suspending the effectiveness of such registration statement or the initiation or threatening of any proceeding for such purpose and promptly use its best efforts to prevent the issuance of any stop order or to obtain its withdrawal at the earliest possible moment if such stop order should be issued.

III.6 Suspension of Dispositions. Each Holder agrees by acquisition of any Registrable Shares that, upon receipt of any notice (a "Suspension Notice") from the Company of the happening of any event of the kind described in Section 3.5(v)(C) such Holder will forthwith discontinue disposition of Registrable Shares until such Holder's receipt of the copies of the supplemented or amended prospectus, or until it is advised in writing (the "Advice") by the Company that the use of the prospectus may be resumed, and has received copies of any additional or supplemental filings which are incorporated by reference in the prospectus, and, if so directed by the Company, such Holder will deliver to the Company all copies, other than permanent file copies then in such Holder's possession, of the prospectus covering such Registrable Shares current at the time of receipt of such notice. In the event the Company shall give any such notice, the period regarding the effectiveness of registration statements set forth in Section 3.5(ii) shall be extended by the number of days during the period from and including the date of the giving of the Suspension Notice to and including the date when each seller of Registrable Shares covered by such registration statement shall have received the copies of

the supplemented or amended prospectus or the Advice. The Company shall use its best efforts and take all such actions as are reasonably necessary to render the Advice as promptly as practicable.

III.7 Registration Expenses. All expenses incident to the Company's performance of or compliance with this Article III, including all registration and filing fees, all fees and expenses associated with filings required to be made with the NASD (including, if applicable, the fees and expenses of any "qualified independent underwriter" as such term is defined in Schedule E of the By-Laws of the NASD), as may be required by the rules and regulations of the NASD, fees and expenses of compliance with securities or "blue sky" laws (including reasonable fees and disbursements of counsel in connection with "blue sky" qualifications of the Registrable Shares), rating agency fees, printing expenses (including expenses of printing certificates for the

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Registrable Shares in a form eligible for deposit with Depository Trust Company and of printing prospectuses if the printing of prospectuses is requested by a holder of Registrable Shares), messenger and delivery expenses, the Company's internal expenses (including, all salaries and expenses of its officers and employees performing legal or accounting duties), the fees and expenses incurred in connection with any listing of the Registrable Shares, fees and expenses of counsel for the Company and its independent certified public accountants (including the expenses of any special audit or "cold comfort" letters required by or incident to such performance), securities acts liability insurance (if the Company elects to obtain such insurance), the fees and expenses of any special experts retained by the Company in connection with such registration, and the fees and expenses of other persons retained by the Company and reasonable fees and expenses of one firm of counsel for the sellers (which shall be selected by the holders of a majority of the Registrable Shares being included in any particular registration statement) (all such expenses being herein called "Registration Expenses") will be borne by the Company whether or not any registration statement becomes effective; provided, however, that in no event shall Registration Expenses include any underwriting discounts, commissions, or fees or any broker-dealer charges attributable to the sale of the Registrable Shares or any counsel (except as provided above), accountants, or other persons retained or employed by the Holders.

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III.8 Indemnification.

III.8.1 In the event of any registration of any Registrable Shares under the Securities Act pursuant to this Article III, the Company shall indemnify and reimburse, to the fullest extent permitted by law, each seller of Registrable Shares, and each of its employees, advisors, agents, representatives, partners, officers, and directors and each Person who controls such seller (within the meaning of the Securities Act or the Exchange Act) and any agent or investment advisor thereof (collectively, the "Seller Affiliates") (A) against any and all losses, claims, damages, liabilities, and expenses, joint or several (including, attorneys' fees and disbursements except as limited by Section 3.8.3) based upon, arising out of, related to, or resulting from any untrue or alleged untrue statement of a material fact contained in any registration statement, prospectus (if used within the period during which the Company is required to keep the registration statement in which such prospectus is contained current pursuant to the terms of this Agreement or the Securities Act), or preliminary prospectus (if used prior to the effective date of the registration statement) or any amendment thereof or supplement thereto, or any omission or alleged omission of a material fact required to be stated therein or necessary to make the statements therein not misleading, (B) against any and all loss, liability, claim,

damage, and expense whatsoever, as incurred, to the extent of the aggregate amount paid in settlement of any litigation or investigation or proceeding by any governmental agency or body, commenced or threatened, or of any claim whatsoever based upon, arising out of, related to, or resulting from any such untrue statement or omission or alleged untrue statement or omission, and (C) against any and all costs and expenses (including reasonable fees and disbursements of counsel) as may be reasonably incurred in investigating, preparing, or defending against any litigation, investigation, or proceeding by any governmental agency or body, commenced or threatened, or any claim whatsoever based upon, arising out of, related to, or resulting from any such untrue statement or omission or alleged untrue statement or omission, to the extent that any such expense or cost is not paid under clause (A) or (B) of this Section 3.8.1; except insofar as the same are made in reliance upon and in strict conformity with information furnished in writing to the Company by such seller or any Seller Affiliate for use therein or arise from such seller's or any Seller Affiliate's failure to deliver a copy of the registration statement or prospectus or any amendments or supplements thereto after the Company has furnished such seller or Seller Affiliate with a sufficient number of copies of the same. The reimbursements required by this Section 3.8.1 will be made by periodic payments during the course of the investigation or defense, as and when bills are received or expenses incurred.

III.8.2 In connection with any registration statement in which a seller of Registrable Shares is participating, each such seller will furnish to the Company in writing such information and affidavits as the Company reasonably requests for use in connection with any such registration statement or prospectus and, to the fullest extent permitted by law, each such seller will indemnify the Company and its directors and officers and each Person who controls the Company (within the meaning of the Securities Act or the Exchange Act) against any and all losses, claims, damages, liabilities, and expenses (including, reasonable attorneys' fees and disbursements except as limited by Section 3.8.3) resulting from any untrue statement or alleged untrue statement of a

material fact contained in the registration statement, prospectus, or any preliminary prospectus or any amendment thereof or supplement thereto or any omission or alleged omission of a material fact required to be stated therein or necessary to make the statements therein not misleading, but only to the extent that such untrue statement or alleged untrue statement or omission or alleged omission is contained in any information or affidavit so furnished in writing by such seller or any of its Seller Affiliates specifically for inclusion in the registration statement; provided, however, that the obligation to indemnify will be several, not joint and several, among such sellers of Registrable Shares, and the liability of each such seller of Registrable Shares will be in proportion to, and provided further that such liability will be limited to, the net amount received by such seller from the sale of Registrable Shares pursuant to such registration statement; further provided, however, that such seller of Registrable Shares shall not be liable in any such case to the extent that prior to the filing of any such registration statement or prospectus or amendment thereof or supplement thereto, such seller has furnished in writing to the Company information expressly for use in such registration statement or prospectus or any amendment thereof or supplement thereto which corrected or made not misleading information previously furnished to the Company.

III.8.3 Any Person entitled to indemnification hereunder will (A) give prompt written notice to the indemnifying party of any claim with respect to which it seeks indemnification (provided that the failure to give

such notice shall not limit the rights of such Person) and (B) unless in such indemnified party's reasonable judgment a conflict of interest between such indemnified and indemnifying parties may exist with respect to such claim, permit such indemnifying party to assume the defense of such claim with counsel reasonably satisfactory to the indemnified party; provided, however, that any person entitled to indemnification hereunder shall have the right to employ separate counsel and to participate in the defense of such claim, but the fees and expenses of such counsel shall be at the expense of such person unless (X) the indemnifying party has agreed to pay such fees or expenses, (Y) the indemnifying party shall have failed to assume the defense of such claim and employ counsel reasonably satisfactory to such person or (Z) in the indemnified party's reasonable judgment a conflict of interest between the indemnified party and the indemnifying party may exist into respect to such claims. If such defense is not assumed by the indemnifying party as permitted hereunder, the indemnifying party will not be subject to any liability for any settlement made by the indemnified party without its consent (but such consent will not be unreasonably conditioned, delayed, or withheld). If such defense is assumed by the indemnifying party pursuant to the provisions hereof, such indemnifying party shall not settle or otherwise compromise the applicable claim unless (1) such settlement or compromise contains a full and unconditional release of the indemnified party or (2) the indemnified party otherwise consents in writing. An indemnifying party who is not entitled to, or elects not to, assume the defense of a claim will not be obligated to pay the fees and expenses of more than one counsel for all parties indemnified by such indemnifying party with respect to such claim, unless in the reasonable judgment of any indemnified party, a conflict of interest may exist between such indemnified party and any other of such indemnified parties with respect to such claim, in which event the indemnifying party shall be obligated to pay the reasonable fees and disbursements of such additional counsel or counsels.

III.8.4 Each party hereto agrees that, if for any reason the indemnification provisions contemplated by Section 3.8.1 or 3.8.2 are unavailable to or insufficient to hold harmless an indemnified party in respect of any losses, claims, damages, liabilities, or expenses (or actions in respect thereof) referred to therein, then each indemnifying party shall contribute to the amount paid or payable by such indemnified party as a result of such losses, claims, liabilities, or expenses (or actions in respect thereof) in such proportion as is appropriate to reflect the relative fault of the indemnifying party and the indemnified party in connection with the actions which resulted in the losses, claims, damages, liabilities, or expenses as well as any other relevant equitable considerations. The relative fault of such indemnifying party and indemnified party shall be determined by reference to, among other things, whether the untrue or alleged untrue statement of a material fact or omission or alleged omission to state a material fact relates to information supplied by such indemnifying party or indemnified party, and the parties' relative intent, knowledge, access to information, and opportunity to correct or prevent such statement or omission. The parties hereto agree that it would not be just and equitable if contribution pursuant to this Section 3.8.4 were determined by pro rata allocation (even if the Holders or any underwriters or all of them were treated as one person for such purpose) or by any other method of allocation which does not take account of the equitable considerations referred to in this Section 3.8.4. The amount paid or payable by an indemnified party as a result of the losses, claims, damages, liabilities, or expenses (or actions in respect thereof) referred to above shall be deemed to include any legal or other fees or expenses reasonably incurred by such indemnified party in connection with investigating or, except as provided in Section 3.8.3,

defending any such action or claim. Notwithstanding the provisions of this Section 3.8.4, no Holder shall be required to contribute an amount greater than the dollar amount by which the net proceeds received by such Holder with respect to the sale of any Registrable Shares exceeds the amount of damages which such Holder has otherwise been required to pay by reason of any and all untrue or alleged untrue statements of material fact or omissions or alleged omissions of material fact made in any registration statement, prospectus, or preliminary prospectus or any amendment thereof or supplement thereto related to such sale of Registrable Shares. No person guilty of fraudulent misrepresentation (within the meaning of Section 11(f) of the Securities Act) shall be entitled to contribution from any person who was not guilty of such fraudulent misrepresentation. The Holders' obligations in this Section 3.8.4 to contribute shall be several in proportion to the amount of Registrable Shares registered by them and not joint. If indemnification is available under this Section 3.7, the indemnifying parties shall indemnify each indemnified party to the full extent provided in Sections 3.8.1 and 3.8.2 without regard to the relative fault of such indemnifying party or indemnified party or any other equitable consideration provided for in this Section 3.8.4 subject, in the case of the Holders, to the limited dollar amounts set forth in Section 3.8.2.

III.8.5 The indemnification and contribution provided for under this Agreement will remain in full force and effect regardless of any investigation made by or on behalf of the indemnified party or any officer, director, or controlling Person of such indemnified party and will survive the transfer of securities.

III.9 Limitations on Future Registration Rights. The Company shall not in the future grant any Person registration rights in respect of Preferred Stock, Common Stock, or Common Stock Equivalents more favorable than, or materially inconsistent with, those granted to the Holders herein unless the Company shall concurrently modify and amend this Agreement to provide to the Holders the benefits of any such more favorable provisions.

III.10 Rule 144 Reporting. With a view to making available to the Holders the benefits of certain rules and regulations of the SEC that permit the sale of the shares of any class or series of capital stock to the public without registration, after the completion of any registration pursuant to this Article III, the Company shall: (i) use its best efforts to make and keep public information available, as those terms are understood and defined in SEC Rule 144, or any successor provision thereto, at all times, (ii) use its best efforts to file with the SEC in a timely manner all reports and other documents required of the Company under the Securities Act and the Exchange Act, and (iii) so long as a Holder owns any shares of any class or series of capital stock, to furnish to such Holder forthwith upon its request a written statement by the Company as to the Company's compliance with the reporting requirements of Rule 144, the Securities Act, and the Exchange Act.

ARTICLE IV
TRANSFERS OF SECURITIES

IV.1 Transfer and Exchange. Subject to the limitations described in Article V hereof, when Securities are presented to the Company with a request to register the transfer of such Securities or to exchange such Securities for Securities of other authorized denominations, the Company shall register the transfer or make the exchange as requested if the requirements of this Agreement for such transaction are met; provided, however, that the Securities surrendered for transfer or exchange shall be duly endorsed or accompanied by a written instrument of transfer in form satisfactory to the Company, duly executed by the Holder thereof or its attorney and duly authorized in writing. No

service charge shall be made for any registration of transfer or exchange, but the Company may require payment of a sum sufficient to cover any transfer tax or similar governmental charge payable in connection therewith.

IV.2 Replacement of Securities. If a mutilated Security is surrendered to the Company or if the Holder of a Security claims and submits an affidavit or other evidence, satisfactory to the Company, to the effect that the Security has been lost, destroyed, or wrongfully taken, the Company shall issue a replacement Security if the Company's requirements are met. If required by the Company, such securityholder must provide a lost security affidavit and an indemnity bond, or other form of indemnity, sufficient in the judgment of the Company to protect the Company against any loss which may be suffered. The Company may charge such securityholder for its reasonable out-of-pocket expenses in replacing a Security which has been mutilated, lost, destroyed, or wrongfully taken.

ARTICLE V
LIMITATION ON TRANSFERS

V.1 Restrictions on Transfer. The Securities shall not be Transferred or otherwise conveyed, assigned, or hypothecated before satisfaction of (i) the conditions specified in

Sections 5.1, 5.2, and 5.3, which conditions are intended to ensure compliance with the provisions of the Securities Act with respect to the Transfer of any Security, and (ii) Article IV. Any purported Transfer in violation of this Article V, and/or, if applicable, Article IV shall be void ab initio and of no force or effect. Other than Transfers to the public pursuant to an effective registration statement or sales to the public pursuant to Rule 144 under the Securities Act otherwise permitted hereunder, each Holder will cause any proposed transferee of any Security or any interest therein held by it to agree to take and hold such securities subject to the provisions and upon the conditions specified in this Agreement.

V.2 Restrictive Legends.

V.2.1 Securities Act Legend. Except as otherwise provided in Section 5.4, each Security held by a Holder, and each Security issued to any subsequent transferee of such Holder, shall be stamped or otherwise imprinted with a legend in substantially the following form:

> THE SECURITIES REPRESENTED BY THIS CERTIFICATE HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED, NOR PURSUANT TO THE SECURITIES OR "BLUE SKY" LAWS OF ANY STATE. SUCH SECURITIES MAY NOT BE OFFERED, SOLD, TRANSFERRED, PLEDGED, HYPOTHECATED, OR OTHERWISE ASSIGNED, EXCEPT PURSUANT TO (i) A REGISTRATION STATEMENT WITH RESPECT TO SUCH SECURITIES WHICH IS EFFECTIVE UNDER SUCH ACT, (ii) RULE 144 UNDER SUCH ACT, OR (iii) ANY OTHER EXEMPTION FROM REGISTRATION UNDER SUCH ACT.

V.2.2 Other Legends. Except as otherwise permitted by the last sentence of Section 5.1, each Security issued to each Holder or a subsequent transferee shall include a legend in substantially the following form:

> THIS SECURITY IS SUBJECT TO RESTRICTIONS ON TRANSFER AND OTHER TERMS AND CONDITIONS AS SET FORTH IN THE INVESTORS RIGHTS AGREEMENT DATED AS OF MAY 22, 1998, A COPY OF WHICH MAY BE OBTAINED FROM THE COMPANY AT ITS PRINCIPAL EXECUTIVE OFFICES.

V.3 Notice of Proposed Transfers. Prior to any Transfer or attempted Transfer of any Security, the Holder of such Security shall (i) give five Business Days' prior written notice (a "Transfer Notice") to the Company of such Holder's intention to effect such Transfer, describing the manner and circumstances of

the proposed Transfer, and (ii) either (A) provide to the Company an opinion reasonably satisfactory to the Company from counsel who shall be reasonably satisfactory to the Company (or supply such other evidence reasonably satisfactory to the Company) that the proposed Transfer of such Security may be effected without registration under the Securities Act, or (B) certify in writing to the Company that the Holder reasonably believes the proposed transferee is a "qualified institutional buyer" and that such Holder has taken reasonable steps to make the proposed transferee aware that such Holder may rely on Rule 144A under the Securities Act in effecting such Transfer. After receipt of the Transfer Notice and opinion (if required), the Company shall have five Business Days to object to the transfer by

written notice to such Holder describing in reasonably detail the basis for the objection, and in the absence of such notice, such Holder shall thereupon be entitled to Transfer such Security in accordance with the terms of the Transfer Notice. Each Security issued upon such Transfer shall bear the restrictive legend set forth in Section 5.2, unless in the opinion of such counsel such legend is not required in order to ensure compliance with the Securities Act.

V.4 Termination of Certain Restrictions. Notwithstanding the foregoing provisions of this Article V, the restrictions imposed by Section 5.2.1 upon the transferability of the Securities and the legend requirements of Section 5.2.1 shall terminate as to any Security (i) when and so long as such Security shall have been effectively registered under the Securities Act and disposed of pursuant thereto or (ii) when the Company shall have received an opinion of counsel reasonably satisfactory to it that such Security may be transferred without registration thereof under the Securities Act and that such legend may be removed. Whenever the restrictions imposed by Section 5.2 shall terminate as to any Security, the Holder thereof shall be entitled to receive from the Company, at the Company's expense, a new Security not bearing the restrictive legend set forth in Section 5.2.

ARTICLE VI
TERMINATION

VI.1 Termination. The provisions of this Agreement shall terminate on the earlier of (i) May 22, 2004, (ii) the first date on which there ceases to be any Registrable Shares outstanding, and (iii) the date upon which the Company and each Holder mutually agree in writing to terminate this Agreement.

ARTICLE VII
MISCELLANEOUS

VII.1 Notices. Any notices or other communications required or permitted hereunder shall be in writing, and shall be sufficiently given if made by hand delivery, overnight courier, by telecopier, or first class or certified mail, postage prepaid, return receipt requested, addressed as follows (or at such other address as may be substituted by notice given as herein provided in accordance with this Section 7.1):

If to the Company:

Stratus Properties Inc.
98 San Jacinto Boulevard, Suite 2200
Austin, Texas 78701
Facsimile No.: (512) 478-5788
Attention: William H. Armstrong, III

With a copy to:

Stratus Properties Inc.
1615 Poydras
New Orleans, LA 70112
Facsimile No.: (504) 585-3513

Attention: John G. Amato

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If to any Holder, at its address listed on the signature pages hereof.

Any notice or communication hereunder shall be deemed to have been given or made as of the date so delivered, if personally delivered or delivered by overnight courier; when receipt is electronically confirmed, if telecopied; and three calendar days after mailing if sent by registered or certified mail (except that a notice of change of address shall not be deemed to have been given until actually received by the addressee). Failure to mail a notice or communication to a Holder or any defect in it shall not affect its sufficiency with respect to other Holders. If a notice or communication is mailed in the manner provided above, it is duly given, whether or not the addressee receives it.

VII.2 Legal Holidays. A "Legal Holiday" used with respect to a particular place of payment is a Saturday, a Sunday, or a day on which banking institutions at such place are not required to be open. If a payment date is a Legal Holiday at such place, payment may be made at such place on the next succeeding day that is not a Legal Holiday, and no interest on the amount of such payment shall accrue for the intervening period.

VII.3 Governing Law. THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF DELAWARE, WITHOUT REGARD TO THE PRINCIPLES OF CONFLICTS OF LAW THEREOF.

VII.4 Successors and Assigns. This Agreement and the rights and obligations hereunder shall not be assigned by the Company or Olympus without the other party's prior written consent; provided, however, that whether or not an express assignment has been made pursuant to the provisions of this Agreement, the provisions of Articles III, IV and V of this Agreement that are applicable to the Holders as the holders of any Securities are also for the benefit of, and enforceable by and against, all subsequent holders of Securities, except as otherwise expressly provided herein. This Agreement shall be binding upon the Company, each Holder, and their respective successors and assigns.

VII.5 Duplicate Originals. All parties may sign any number of copies of this Agreement. Each signed copy shall be an original, but all of them together shall represent the same agreement.

VII.6 Severability. If any provision of this Agreement, or the application of such provision to any person or circumstance, shall be held invalid under the applicable law of any jurisdiction, the remainder of this Agreement or the application of such provision to other persons or circumstances or in other jurisdictions shall not be affected thereby. Also, if any provision of this Agreement is invalid or unenforceable under any applicable law, then such provision shall be deemed inoperative to the extent that it may conflict therewith and shall be deemed modified to conform with such law. Any provision hereof that may prove invalid or unenforceable under any law shall not affect the validity or enforceability of any other provision hereof.

VII.7 No Waivers; Amendments.

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VII.7.1 No failure or delay on the part of the Company or any Holder in exercising any right, power, or remedy hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any such right, power, or remedy preclude any other or further exercise thereof or the exercise of any other right, power, or remedy. The remedies provided for herein are cumulative and are not exclusive of any remedies that may be available to

the Company or any Holder at law, in equity, or otherwise.

VII.7.2 Any provision of this Agreement may be amended or waived if, but only if, such amendment or waiver is in writing and is signed by the Company and the Required Holders.

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IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the date first written above.

STRATUS PROPERTIES INC.

By: /s/ William H. Armstrong III

Name: William H. Armstrong III
Title: President

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[SIGNATURE PAGE TO INVESTORS RIGHTS AGREEMENT]

OLY/STRATUS EQUITIES, L.P.

By: Oly Fund II GP Investments, L.P., its General Partner

By: Oly Real Estate Partners II, L.P., its General Partner

By: Oly REP II, L.P., its General Partner

By: Oly Fund II, LLC, its General Partner

By: /s/ Hal R. Hall

Name: Hal R. Hall
Title: Vice President

Address: 200 Crescent Court, Suite 1650
Dallas, Texas 75201
Facsimile: (214) 740-7340
Attention: David D. Deniger

with a copy to:

Weil, Gotshal & Manges LLP
100 Crescent Court, Suite 1300
Dallas, Texas 75201
Facsimile: (214) 746-7777
Attention: Robert C. Feldman

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LOAN AGREEMENT

THIS LOAN AGREEMENT (this "Agreement") is executed effective as of the 22nd day of May, 1998 (the "Effective Date"), by and between STRATUS VENTURES I BORROWER L.L.C., a Delaware limited liability company ("Borrower"), and OLY LENDER STRATUS, L.P., a Texas limited partnership ("Lender"), and, solely for the purposes of acknowledging the provisions of Article XIV hereof relating to the conversion of the Obligations (as hereinafter defined) hereunder into Parent Common Stock (as hereinafter defined), STRATUS PROPERTIES INC., a Delaware corporation ("Parent").

R E C I T A L S

WHEREAS, Borrower is a special purpose entity wholly-owned by Parent, formed exclusively for the purpose of investing in joint ventures for new land acquisitions and real estate development projects for which borrowings can be made hereunder; and

WHEREAS, Borrower has requested that Lender make a loan to Borrower, available in multiple draws, in the maximum principal amount of up to Ten Million Dollars ($10,000,000) (the "Loan") strictly for the purposes set forth in this Agreement; and

WHEREAS, Parent, as the sole owner of equity interests in Borrower, will derive significant direct and indirect economic benefit from the Loans and other financial accommodations made by Lender to Borrower pursuant to this Agreement, and it is a condition to the making of the Loans pursuant to this Agreement that Parent shall enter into certain agreements and acknowledgments contained herein, including without limitation, those contained in Article XIV hereof; and

WHEREAS, Lender has agreed to make such Loan upon the terms and subject to the conditions set forth in this Agreement.

NOW, THEREFORE, for and in consideration of the foregoing premises, the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto hereby agree as follows:

A G R E E M E N T S

Article I
DEFINITIONS AND DETERMINATIONS

Section I.1 Definitions. As used in this Agreement and in the other Loan Documents, unless otherwise expressly indicated herein or therein, the following terms shall have the following meanings (such meanings to be applicable equally both to the singular and plural terms defined):

"Accountants" shall have the meaning given to such term in Section 9.3(a).

"Advance" shall have the meaning given to such term in Section 2.1.

"Affiliate" shall mean any Person that directly or indirectly, through one or more intermediaries, controls or

is controlled by or is under common control with another Person. The term "control" means possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a Person, whether through the ownership of voting securities, by contract or otherwise. For the purpose hereof, any Person which owns or controls, directly or indirectly, thirty percent (30%) or more of the equity securities, voting or otherwise, of another Person shall be deemed to "control" such Person. Notwithstanding the foregoing, under no circumstances shall Lender be considered an Affiliate of Borrower.

"Agreement" means this Loan Agreement as the same may be amended, restated, supplemented or otherwise modified from time to time.

"Blockage Notice" shall have the meaning given to such term in Section 14.4.

"Blockage Period" shall have the meaning given to such term in Section 14.4.

"Board" means the Board of Governors of the Federal Reserve System of the United States.

"Book Value of Assets" shall mean, as of any time, the cost of any assets and properties as reflected on the books and records of Parent and its Restricted Subsidiaries. If the cost of such assets or property was included in the balance sheet contained in the most recent Form 10-Q or Form 10-K filed with the SEC, the cost as so reflected, shall be the "Book Value", as such amount is adjusted for the cost of subsequent improvements and investments.

"Borrower" has the meaning set forth in the preamble to this Agreement.

"Borrower Capital Stock" shall mean all of the capital stock of Borrower, a description and the owners of the outstanding shares of which is set forth in Exhibit 1.

"Business Day" shall mean any day other than a Saturday, Sunday or holiday under the laws of the States of Texas or New York, or a day on which banking institutions located in the States of Texas or New York are authorized or required by law or other governmental action to close.

"Capitalized Lease" shall mean any lease of Property, the obligations for rental of which are required to be capitalized in accordance with GAAP.

"Cash Collateral Account" shall have the meaning given to such term in Section 2.3(d).

"Cash Collateral Agreement" shall have the meaning given to such term in Section 2.3(d).

"CERCLA" means, collectively, the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Act of 1986, 42 U.S.C. SS 9601 et seq.

"Closing Date" shall mean the date occurring on or after the Effective Date on which the first borrowing under the Loan occurs.

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

"Collateral" shall mean the Property in which Lender is granted the Security Interests pursuant to the Loan Documents.

"Contingent Obligation" as applied to any Person, means any direct or indirect liability, contingent or otherwise, of that Person: (a) with respect to any indebtedness, lease, dividend or other obligation of another Person if the primary purpose or intent of the Person incurring such liability, or the primary effect thereof, is to provide assurance to the obligee of such liability that such liability will be paid or discharged, or that any agreements relating thereto will be complied with, or that the holders of such liability will be protected (in whole or in part) against loss with respect thereto; (b) with respect to any letter of credit issued for the account of that Person or as to which that Person is otherwise liable for reimbursement of drawings; (c) under any foreign exchange contract, currency swap agreement or other similar agreement or arrangement designed to protect that Person against fluctuations in currency values; or (d) under any commodity futures contract. Contingent Obligations shall include (i) the direct or indirect guaranty, endorsement (otherwise than for collection or deposit in the ordinary course of business), co-making, discounting with recourse or sale with recourse by such Person of the obligation of another, (ii) the obligation to make take-or-pay or similar payments if required regardless of nonperformance by any other party or parties to an agreement, and (iii) any liability of such Person for the obligations of another through any agreement to purchase, repurchase or otherwise acquire such obligation or any property constituting security therefor, to provide funds for the payment or discharge of such obligation or to maintain the solvency, financial condition or any balance sheet item or level of income of another. The amount of any Contingent Obligation shall be equal to the amount of the obligation so guarantied or otherwise supported or, if a fixed and determined amount, the maximum amount so guaranteed.

"Conversion" shall have the meaning given to such term in Section 14.1.

"Conversion Limitations" shall mean the limitations on the issuance of Parent Common Stock identified in Section 14.2.

"Coverage Ratio" shall mean, as of any time, the ratio of (A) the Book Value of Assets to (B) (i) the aggregate amount of outstanding Debt of Parent and its Restricted Subsidiaries, plus (ii) any outstanding Preferred Obligations.

"Debt" of any Person means at any date, without duplication, (i) all obligations of such Person for borrowed money, (ii) all obligations of such Person evidenced by bonds, debentures, notes or other similar instruments, (iii) all obligations of such Person to pay the deferred purchase price of property or services, except accounts payable arising in the ordinary course of business, (iv) all obligations of such person as lessee under capital leases, (v) all Debt of others secured by any mortgage, lien, pledge, charge, security interest or encumbrance of any kind on any asset of such Person and (vi) all Debt of others Guaranteed by such Person.

"Default Rate" shall mean the lesser of fifteen percent (15%) per annum and the Maximum Lawful Rate.

"Default Rate Period" shall mean a period of time commencing on the date that an Event of Default has occurred and ending on the date that such Event of Default is cured or waived in writing by Lender.

"Dollars" and the sign "$" shall mean freely transferable lawful money of the United States.

"Effective Date" shall have the meaning set forth in the preamble to this Agreement.

"Environmental Claim" means any written notice of violation, claim, demand, order, directive, cost recovery action or other cause of action by, or on behalf of, any Governmental Body or any Person for damages, injunctive or equitable relief, personal injury (including sickness, disease or death), Remedial Action costs, tangible or intangible property damage, natural resource damages, nuisance, pollution, any adverse effect on the environment caused by any Hazardous Material, or for fines, penalties or restrictions resulting from or based upon: (a) the threat or existence, or the continuation of the existence, of a Release (including sudden or non-sudden, accidental or nonaccidental Releases); (b) exposure to any Hazardous material; (c) the presence, use, handling, transportation, storage, treatment or disposal of any Hazardous Material; or (d) the violation of any Environmental Law or Environmental Permit.

"Environmental Law" shall mean any and all applicable treaties, laws, rules, regulations, codes, ordinances, orders, decrees, judgments, injunctions, notices or binding agreements issued, promulgated or entered into by any Governmental Body, relating in any way to the environment, preservation or reclamation of natural resources, the management, Release or threatened Release of any Hazardous Material or to health and safety matters, including CERCLA, the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 and Hazardous and Solid Waste Amendments of 1984, 42 U.S.C. SS 6901 et seq., the Federal Water Pollution Control Act, as amended by the Clean Water Act of 1977, 33 U.S.C. SS 1251 et seq., the Clean Air Act of 1970, as amended, 42 U.S.C. SS 7401 et seq., the Toxic Substances Control Act of 1976, 15 U.S.C. SS 2601 et seq., the Occupational Safety and Health Act of 1970, as amended, 29 U.S.C. SS 651 et seq., the Emergency Planning and Community Right-to-Know Act of 1986, 42 U.S.C. SS 11001 et seq., the Safe Drinking Water Act of 1974, as amended, 42 U.S.C. SS 300(f) et seq., the Hazardous Materials Transportation Act, 49 U.S.C. SS 1801 et seq., and any similar or implementing state or local law, and all amendments or regulations promulgated thereunder.

"Environmental Permit" means any permit, approval, authorization, certificate, license, variance, filing or permission required by or from any Governmental Body pursuant to any Environmental Law.

"ERISA" shall mean the Employee Retirement Income Security Act of 1974, as amended, and the rules and regulations issued thereunder, as in effect from time to time.

"ERISA Affiliate" means any trade or business (whether or not incorporated), that together with Parent, is treated as a single employer under Section 414(b) or (c) of the Code or, solely for purposes of Section 302 of ERISA and Section 412 of the Code, is treated as a single employer under Section 414 of the Code.

"ERISA Event" means (i) any "reportable event", as defined in Section 4043 of ERISA or the regulations issued thereunder, with respect to a Plan; (ii) the adoption of any amendment to a Plan that would require the provision of security pursuant to Section 401 (a)(29) of the Code; (iii) the existence with respect to any Plan of an "accumulated funding deficiency" (as defined in Section 412 of the Code), whether or not waived; (iv) the incurrence of any liability under Title IV of ERISA with respect to any Plan or Multiemployer Plan, other than any liability for contributions not yet due or payment of premiums not yet due; (v) the receipt by Parent or any ERISA Affiliate thereof from the PBGC of any notice relating to the intention of the PBGC to terminate any Plan or Plans or to appoint a trustee to administer any Plan; (vi) the receipt

by Parent or any ERISA Affiliate thereof of any notice concerning the imposition of Withdrawal Liability or a determination that a Multiemployer Plan is, or is expected to be, insolvent or in reorganization, within the meaning of Title IV of ERISA; and (vii) any other similar event or condition with respect to a Plan or Multiemployer Plan that could reasonably result in liability of Parent.

"Event of Default" shall mean any of the Events of Default set forth in Section 11.1.

"Exit Fee" shall mean an amount, which shall constitute additional interest payable hereunder, necessary to permit Lender to realize the Guaranteed Yield.

"Final Payment Date" shall mean the date on which (a) all outstanding Obligations for principal and interest under the Loan have been satisfied and extinguished, whether by way of cash payment or Conversion, and (b) the Lender's commitment to make Advances under the Loan has terminated.

"GAAP" shall mean generally accepted accounting principles as in effect from time to time, which shall include the official interpretations thereof by the Financial Accounting Standards Board, consistently applied.

"Governmental Body" shall mean any foreign, federal, state, municipal or other government, or any department, commission, board, bureau, agency, public authority or instrumentality thereof or any court or arbitrator.

"Governmental Rule" shall mean any statute, law, treaty, rule, code, ordinance, regulation, permit, certificate or order of any Governmental Body or any judgment, decree, injunction, writ, order or like action of any court, arbitration or other judicial or quasi judicial tribunal.

"Guarantee" by any Person means any obligation, contingent or otherwise, of such Person directly or indirectly guaranteeing any Debt of any other Person and, without limiting the generality of the foregoing, any obligation, direct or indirect, contingent or otherwise, (i) to purchase or pay (or advance or supply funds for the purchase or payment of) such Debt (whether arising by virtue of partnership arrangements, by agreement to keep-well, to purchase assets, goods, securities or services, to take-or-pay, or to maintain financial statement conditions or otherwise) or (ii) entered into for the purpose of assuring in any other manner the obligee of such Debt of the payment thereof or to protect such obligee against loss in respect thereof (in whole or in part); and "Guaranteed", "Guaranteeing" and "Guarantor" shall have meanings correlative to the foregoing); provided, however, that the Guarantee by any Person shall not include endorsements by such Person for collection or deposit, in either case in the ordinary course of business.

"Guaranteed Yield" shall mean the aggregate amount of money determined as of the Final Payment Date equal to fifteen percent (15%) per annum, calculated daily, on the principal Obligations outstanding from time to time.

"Guaranty Agreement" shall mean the Guaranty Agreement dated as of the Closing Date, executed by Borrower.

"Hazardous Materials" means all explosive or radioactive materials, substances or wastes, hazardous or toxic materials, substances or wastes, pollutants, solid, liquid or gaseous wastes, including petroleum or petroleum distillates, asbestos or asbestos-containing materials, polychlorinated biphenyls, ("PCBs") or PCB-containing materials or equipment, radon gas, infectious or medical

wastes and all other substances or wastes of any nature regulated pursuant to any Environmental Law.

"Indebtedness" shall mean all liabilities, obligations and reserves, contingent or otherwise, which, in accordance with GAAP, would be reflected as a liability on a balance sheet or would be required to be disclosed in a financial statement, including, without duplication: (i) all Indebtedness for Borrowed Money, (ii) all obligations secured by any Lien upon Property, (iii) all guaranties and other contingent obligations, including, without limitation, letters of credit, and (iv) all liabilities in respect of unfunded vested benefits under any retirement plan and in respect of withdrawal liabilities incurred under ERISA by Borrower.

"Indebtedness for Borrowed Money" shall mean, without duplication, all Indebtedness which is owing with respect to any of the following: (i) money borrowed, (ii) obligations evidenced by a note, debenture or other like written obligation to pay money (including, without limitation, all of the Obligations, and the Loan), (iii) obligations under Capitalized Leases or for the deferred purchase price of Property, (iv) obligations under conditional sales or other title retention agreements, (v) any guaranty of any or all of the foregoing, or (vi) trade payables.

"Joint Venture" shall mean any joint venture entered into between Borrower or a Subsidiary and Olympus for new land acquisition and development of such land, if Borrower's contribution to such joint venture will be funded with proceeds from the Loan, specifically excluding any land owned or controlled by Parent or an Affiliate of Parent as of the Effective Date and any projects involving the development thereof.

"Joint Venture Distribution" shall mean, for any period, any and all cash distributable to Borrower from the Joint Ventures.

"Joint Venture Distribution Date" shall mean the date occurring fifteen (15) days after any Joint Venture Distribution.

"Lender" shall have the meaning set forth in the preamble to this Agreement.

"Lien" shall mean any mortgage, pledge, assignment, lien, charge, encumbrance or security interest of any kind, or the interest of a vendor or lessor under any conditional sale agreement or Capitalized Lease or other title retention agreement.

"Loan" shall have the meaning set forth in the recitals to this Agreement.

"Loan Documents" shall mean this Agreement, the Note and the Security Documents and all certificates, instruments, documents and other agreements executed pursuant to any of the foregoing or otherwise in connection with the Loan, and any and all renewals, extensions and modifications of any of the foregoing described documents and instruments and any and all replacements and substitutions therefor.

"Margin Stock" has the meaning assigned to such term in Regulation U.

"Market Value" means the last per share sale price of the Parent Common Stock as reported by the Nasdaq National Market (or any national stock exchange or interdealer quotation system on which the Parent Common Stock is then listed or quoted).

"Material Adverse Effect" shall have the meaning given to such term in Section 6.3.

"Maturity Date" shall mean the date which is six (6) years after the Closing Date, unless earlier accelerated pursuant to the terms hereof.

"Maximum Lawful Rate" shall mean the maximum nonusurious rate of interest permitted by the laws of the United States or applicable state law, whichever laws allow the greater rate of interest, as such laws now exist or may be changed or amended or come into effect in the future.

"Nonrestricted Subsidiaries" shall have the meaning attributed to such term in the Parent Credit Agreement. If such agreement is terminated or no longer includes the concept of Nonrestricted Subsidiaries and it is not replaced by a successor agreement containing such concept in connection with a refinancing, then the definition of such term at the time of such termination shall be the definition of such term hereunder.

"Note" shall mean that certain Convertible Promissory Note dated as of the Closing Date, executed by Borrower, payable to the order of Lender, in the original principal amount of Ten Million Dollars ($10,000,000) and any and all renewals, extensions and modifications thereof and substitutions and replacements therefor.

"Obligations" shall mean (i) any and all Indebtedness, due or to become due, now existing or hereafter or howsoever arising from Borrower and/or any other Obligor to Lender pursuant to the terms of the Loan Documents, including, without limitation, the Loan, and (ii) the performance of the covenants of Borrower contained in the Loan Documents.

"Obligor" shall mean, as the context may require, Borrower, each Subsidiary and any other Person (other than Lender) to the extent such Person is obligated under this Agreement or any other Loan Document.

"Olympus" shall mean Olympus Real Estate Corporation, a Texas corporation, and any Affiliates thereof.

"Parent" shall have the meaning set forth in the recitals of this Agreement.

"Parent Common Stock" shall mean the common stock of Parent, $0.01 par value, and any securities into which the Parent Common Stock may hereafter be exchanged or converted pursuant to any merger, consolidation, recapitalization or reclassification effected by Parent.

"Parent Credit Agreement" shall mean the Amended, Restated and Consolidated Credit Agreement dated as of December 15, 1997 among FM Properties Operating Co., Circle C Land Corp., the financial institutions party thereto and The Chase Manhattan Bank, as agent, with respect to which Parent is a guarantor, as the same may be amended, supplemented, replaced, refinanced or otherwise modified from time to time.

"Parent's Permitted Liens " shall have the meaning given to such term in Section 7.9.

"Parent's Senior Debt" means all Debt of Parent including principal, premium, if any, and interest on (including interest accruing after the filing of a petition initiating any proceeding pursuant to any bankruptcy law, whether or not allowed) or other amounts payable in connection with any Debt of Parent, whether presently outstanding or subsequently created, incurred or assumed (other than any other Debt of Parent which expressly

provides by its terms or the terms of the instrument creating or evidencing it that it is subordinate in right of payment in any respect to any other Debt of Parent). Notwithstanding the foregoing, Parent's Senior Debt shall not include any Debt of Parent to any subsidiary of Parent or any liability for federal, state or local taxes owed by Parent.

"Payment Amount" shall mean the aggregate of all payments received by Lender in connection with the satisfaction of principal and interest Obligations, valued as follows:

(a) any cash payment made to Lender or otherwise received by Lender in respect of principal and interest Obligations shall be valued at the face value of such cash payment; and

(b) any Parent Common Stock that is delivered to Lender in connection with the satisfaction of principal Obligations pursuant to a Conversion shall be valued at the average of the Market Value for the ten (10) trading days immediately prior to the date of Conversion, but not less than the Stock Price;

LESS the aggregate amount of all Advances made by Lender to Borrower.

"Payment Obligations" shall have the meaning given to such term in Section 14.4.

"PBGC" shall mean the Pension Benefit Guaranty Corporation referred to and defined in ERISA.

"Permits" shall have the meaning given to such term in Section 6.11.

"Permitted Liens" shall mean any of the following Liens:

(i) the Security Interests;

(ii) Liens for taxes or assessments and similar charges, which either are (A) not delinquent or (B) being contested diligently and in good faith by appropriate proceedings, and as to which Borrower or any Subsidiary has set aside adequate reserves on its books;

(iii) statutory Liens, such as mechanic's, materialman's, warehouseman's, carrier's or other like Liens, incurred in good faith in the ordinary course of business, which are paid in the ordinary course of business or which are bonded in order to remove such Lien of record within 30 days after the moneys become due and owing;

(iv) Liens in respect of judgments or awards, the existence of which would not constitute an Event of Default or Potential Default pursuant to Section 7.1.6;

(v) pledges or deposits made in the ordinary course of business to secure payment of worker's compensation, or to participate in any fund in connection with worker's compensation, unemployment insurance, old-age pensions or other social security programs;

(vi) Liens upon Property of Borrower or any Subsidiary to secure Indebtedness of any Joint Venture, which Liens may be senior to the Liens of Lender; and

(vii) Liens upon the interest of Borrower or any Subsidiary in a Joint Venture granted in favor of other holders of interests in such Joint Venture.

"Person" shall mean any individual, firm,

corporation, limited liability company, business enterprise, trust, association, joint venture, partnership, Governmental Body or other entity, whether acting in an individual, fiduciary or other capacity.

"Plan" means any employee pension benefit plan (other than a Multiemployer Plan) which is subject to the provisions of Title IV of ERISA or Section 412 of the Code and in respect of which Parent, or any ERISA Affiliate is (or, if such plan were terminated, would under Section 4069 of ERISA be deemed to be) an "employer" as defined in Section 3(5) of ERISA.

"Pledge Agreement" shall mean the Pledge Agreement dated as of the Closing Date, executed by Borrower.

"Potential Default" shall mean any event or condition which, with the giving of notice or the lapse of time, or both, would become an Event of Default.

"Preferred Obligation" shall mean any obligation for the payment of money that has matured in connection with a decision by Parent to pay cash to the holders of any Preferred Stock in connection with a Conversion of Preferred Stock.

"Primary Bank Facility" shall mean the credit facility evidenced by the Parent Credit Agreement.

"Property" shall mean all types of real, personal or mixed property and all types of tangible or intangible property owned by Borrower or a Subsidiary.

"Pursuit Costs" shall mean costs and expenses incurred by Parent in connection with a Development Opportunity (as such term is defined in that certain Master Agreement (the "Master Agreement") among Oly Fund II GP Investments, L.P., Oly/Stratus Equities, L.P., Lender, Parent and Stratus Oly L.L.C. dated the date hereof that was pursued for the purposes set forth in the Master Agreement but did not close.

"Quarterly Payment Date" shall mean the last day of each calendar quarter occurring after the Closing Date.

"Regulation U" means Regulation U of the Board as from time to time in effect and all official rulings and interpretations thereunder or thereof.

"Release" means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, disposing, depositing, dispersing, emanating or migrating of any Hazardous Materials in, into, onto or through the environment.

"Remedial Action" shall mean (a) "remedial action" as such term is defined in CERCLA, 42 U.S.C. S 9601(24), and (b) all other actions required by any Governmental Body or voluntarily undertaken to (i) cleanup, remove, treat, abate or in any other way address any Hazardous Material in the environment, (ii) prevent the Release or threat of Release, or minimize the further Release of any Hazardous Material so it does not migrate or endanger or threaten to endanger public health, welfare or the environment or (iii) perform studies and investigations in connection with, or as a precondition to, (i) or (ii) above.

"Restricted Junior Payment" shall mean (a) any dividend or other distribution, direct or indirect, on account of any shares of any class of stock of, or any partnership interest of, Borrower or any of its Subsidiaries now or hereafter outstanding, other than dividends or other distributions from a Subsidiary to Borrower; (b) any redemption, conversion, exchange, retirement, sinking fund or similar payment, purchase or other acquisition for value,

direct or indirect, of any shares of any class of stock of, or of any partnership interest of, Borrower now or hereafter outstanding; (c) any payment or prepayment of principal of, premium, if any, or interest on, redemption, conversion, exchange, purchase, retirement, defeasance, sinking fund or similar payment with respect to, any Indebtedness other than the Obligations; and (d) 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 stock of Borrower now or hereafter outstanding.

"Restricted Subsidiaries" shall have the meaning attributed to such term in the Parent Credit Agreement. If such agreement is terminated or no longer includes the concept of Restricted Subsidiaries and it is not replaced by a successor agreement containing such concept in connection with a refinancing, then the definition of such term at the time of such termination shall be the definition of such term hereunder.

"SEC" shall have the meaning given to such term in Section 8.2.

"Securities" shall have the meaning given to such term in Section 6.3.

"Securities Act" shall have the meaning given to such term in Section 8.2.

"Security Documents" shall mean, collectively, the Pledge Agreement, the Guaranty Agreement and all other agreements and documents executed and delivered pursuant to the foregoing and any and all renewals, extensions and modifications of any of the foregoing and any and all substitutions therefor.

"Security Interests" shall mean the Liens granted to Lender pursuant to the Loan Documents.

"Senior Nonmonetary Default" shall have the meaning given to such term in Section 14.4.

"Senior Payment Default" shall have the meaning given to such term in Section 14.4.

"Specified Senior Debt" means (i) all Parent's Senior Debt under Parent's primary bank credit facility existing from time to time and (ii) other issue of Parent's Senior Debt having a principal amount of at least $10,000,000.

"Stated Rate" shall mean the lesser of (i) twelve percent (12%) per annum or (ii) the Maximum Lawful Rate.

"Stock Price" shall mean a per share price for Parent Common Stock equal to $7.31, as such price may be adjusted from time to time pursuant to Section 14.5.

"Subsidiary" shall mean any Person in which Borrower directly or indirectly owns one hundred percent (100%) of the stock or other equity interest therein, expressly excluding Joint Ventures.

"Withdrawal Liability" shall mean liability to a Multiemployer Plan as a result of a complete or partial withdrawal from such Multiemployer Plan, as such terms are defined in Part I of Subtitle E of Title IV of ERISA.

Section I.2 Lender's Discretion. Whenever the terms "satisfactory to," "determined by," "acceptable to," "shall elect," "shall request," "consented to", "approved by" or similar terms are used in this Agreement or any of the other Loan Documents to apply to Lender, except as otherwise specifically provided herein or therein, such terms shall mean satisfactory to, determined by, acceptable to, at the election of, requested

by, consented to, or approved by as applicable, Lender, in its sole discretion.

Section I.3 Approval in Writing. Any consent or approval to be given by Lender hereunder shall not be effective and shall not be deemed given unless in writing, duly executed and delivered by Lender.

Article II
LOAN AND TERMS OF PAYMENT

Section II.1 Loan. Subject to the terms and conditions set forth in the Loan Documents and in reliance upon the representations and warranties of Borrower contained herein, Lender agrees to make one or more advances to Borrower (each, an "Advance" and collectively, the "Advances") in an aggregate amount not to exceed Ten Million Dollars ($10,000,000), which together shall constitute the Loan. Borrower's obligation to pay the principal of, and interest on, the Loan shall be evidenced by the Note. Borrower shall not be entitled to reborrow any portion of the Loan which is repaid or prepaid.

Section II.2 Interest.

(a) Borrower agrees to pay interest in respect of the unpaid principal amount of the Loan from the date of a cash Advance until such Advance is repaid (whether by acceleration, optional or mandatory prepayment, Conversion or otherwise), at a rate per annum equal to the Stated Rate.

(b) During a Default Rate Period, the Obligations shall bear interest at the Default Rate.

(c) Accrued (and theretofore unpaid) interest shall be payable (i) quarterly in arrears on each Quarterly Payment Date, (ii) upon any repayment or prepayment (on the amount repaid or prepaid), (iii) at maturity (whether by acceleration or otherwise) and, (iv) after maturity, upon demand. Notwithstanding the foregoing, Lender may at any time elect, in its sole discretion, to defer the payment of such interest (or any portion thereof) by accruing and compounding interest quarterly.

(d) Interest shall be computed on the basis of a year consisting of 365 days and charged for the actual number of days during the period for which the interest accrues on the Loan.

(e) At least fifteen (15) Business Days prior to each day on which a payment of interest would be required to be made in accordance with this Section 2.2, Lender shall deliver to Borrower a written notice indicating whether Lender elects to receive the interest payment in cash or to defer the payment of interest. In the event that Borrower fails to receive such notice fifteen (15) Business Days prior to any such interest payment date, Lender shall be deemed to have elected to defer the payment of interest.

Section II.3 Prepayments; Payments.

(a) Borrower shall have the right to prepay the Loans, without premium or penalty, in whole or in part at any time and from time to time.

(b) In addition to other mandatory repayments, and subject to Section 11.4 hereof, Borrower shall be required to repay the entire outstanding principal balance and all accrued but unpaid interest on the Loan on the Maturity Date.

(c) Except as provided in Section 2.3(d) and (e) hereinbelow, on each Joint Venture Distribution Date, Borrower shall pay to Lender an amount equal to one hundred percent (100%) of any Joint Venture Distributions as a

mandatory repayment of principal and accrued interest on the outstanding Loan until such principal and accrued interest is repaid in full.

(d) Upon written request of Borrower and the approval of Lender, Borrower may retain Joint Venture Distributions which it may use for the purposes permitted in the Cash Collateral Agreement; provided, that Olympus shall make a reasonable determination of the net collateralization of the Loan relative to all of Borrower's Joint Venture interests and may condition its approval of such retention by Borrower on the establishment of a cash collateral reserve in a reasonable amount (the "Cash Collateral Account"), which shall serve as additional security for the Loan, pursuant to a cash collateral agreement with Lender (the "Cash Collateral Agreement") to allow Lender adequate protection for repayment of the Loan. Withdrawal rights for Borrower from the Cash Collateral Account will be specified in the Cash Collateral Agreement.

(e) Borrower may upon written notice to Lender, retain an amount of Joint Venture Distributions equal to any cash interest required to be paid by Borrower pursuant to this Agreement and for any taxes for which Borrower is liable, provided that any such amounts shall be retained by Borrower with recourse and such written notice shall specify in reasonable detail the relevant terms of request to retain such amounts.

(f) To the extent that, at any time, there is no outstanding Indebtedness owed under the Loan, all Joint Venture Distributions shall be made to Borrower and Borrower shall be permitted to pay such amounts to Parent either to repay Indebtedness owed by Borrower to Parent or as a dividend.

(g) Any reserve accounts established pursuant to this Section 2.3 shall be invested in money market accounts pursuant to instructions from the Borrower and shall accrue interest thereon.

Section II.4 Conversion into Parent Common Stock. Lender may elect, at any time and from time to time, in its sole and absolute discretion, to convert all or any portion of the principal amount of the Loan into Parent Common Stock, pursuant to Article XIV of this Agreement.

Section II.5 Payments After Event of Default. Any provision of the Loan Documents to the contrary notwithstanding, all payments received by Lender during the existence of an Event of Default may be applied to the Obligations in such manner as Lender may elect.

Section II.6 Method of Payment; Good Funds; Net Payments.

(a) All payments to be made by Borrower to Lender pursuant to the Loan Documents shall be made in Dollars in immediately available funds by wire transfer to an account of Lender, as designated by Lender.

(b) Whenever any payments to be made hereunder or under any other Loan Document 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 and, with respect to payments of principal, interest shall be payable at the applicable rate during such extension.

(c) All payments made by Borrower hereunder or under any Loan Document will be made without set-off counterclaim or other defense.

Section II.7 Maximum Interest. Notwithstanding any provision to the contrary herein contained, Lender shall not collect a rate of interest on any obligation or liability due and

owing by Borrower to Lender in excess of the maximum contract rate of interest permitted by applicable law. Lender and Borrower have agreed that the interest laws of the State of Texas shall govern the relationship among them, but in the event of a final adjudication to the contrary, nunc pro tunc, Borrower shall be obligated to pay to Lender only such interest as then shall be permitted by the laws of the state found to govern the contract relationship among Lender and Borrower. It is the intent of Borrower and Lender in the execution of the Loan Documents and all other agreements among them to contract in strict compliance with applicable usury laws. In furtherance thereof, Borrower and Lender stipulate and agree that none of the terms and provisions contained in or pertaining to any of the Loan Documents or any other agreements among the parties hereto or any of them shall ever constitute or be construed to create (a) a contract to pay, for the use, forbearance or detention of money, interest at a rate or in an amount in excess of the maximum rate of interest permitted by applicable law or (b) a charging of interest at a rate or in an amount in excess of the maximum rate of interest permitted by applicable law. Neither Borrower nor any other obligor under the Loan Documents or any other agreements among the parties hereto or any of them shall ever be required to pay interest with respect to the Note or any of the other Obligations at a rate in excess of the maximum interest rate that may be lawfully charged under applicable law, and the provisions of this paragraph shall control over all other provisions of the Loan Documents or any other agreements among the parties hereto or any of them which may be in apparent conflict herewith. Lender and each other holder of the Note or any of the other Obligations expressly disavows any intention to charge or collect excessive unearned interest or finance charges in the event the maturity of the Note or any of the other Obligations are accelerated. If the maturity of the Note or any of the other Obligations shall be accelerated for any reason or if the principal of the Note or any of the other Obligations is paid prior to the end of the term of such Obligations and as a result thereof the interest received for the actual period of existence of such Obligations exceeds the applicable maximum lawful rate, Lender shall, at its option, either refund the amount of such excess or credit the amount of such excess against the principal balance of the Obligations outstanding and thereby shall render inapplicable any and all penalties of any kind provided by applicable law as a result of such excess interest. If due to any circumstance whatsoever, fulfillment of any of the provisions of the Loan Documents or any other agreement among the parties hereto or any of them at the time performance of such provision shall be due shall exceed the maximum amount of interest permitted by applicable law, then, automatically, the obligation to be fulfilled shall be modified, reduced or eliminated to the extent necessary to limit such interest to the maximum amount permitted by applicable law, and if from any such circumstance Lender or any other holder of the Note or other Obligations should ever receive anything of value deemed interest by applicable law which would exceed the Maximum Lawful Rate, such excessive interest shall be applied to the reduction of the principal amount then outstanding on the Loan or on account of the principal amount of any other indebtedness secured by the Loan Documents and not to the payment of interest, or if such excessive interest exceeds the unpaid principal balance then outstanding thereunder and such other indebtedness, such excess shall be refunded to Borrower or the agreement creating such excess interest shall be cancelled, in which event any and all penalties of any kind under applicable law as a result of such excess interest shall be inapplicable. By execution of this Loan Agreement, Borrower acknowledges that it believes the Note and the other Obligations to be non-usurious and agree that if, at any time, Borrower should have reason to believe that the Note or any such other Obligation is in fact usurious, Borrower shall give Lender notice of such condition and Borrower agrees that Lender shall have ninety (90) days after such notice in which to make appropriate refund or other adjustment in order to correct such condition if in fact such exists. All amounts paid or agreed to be paid in connection with the Obligations which would under any law in effect and applicable to Lender be deemed "interest" shall, to the extent permitted by such applicable law, be amortized, prorated,

allocated and spread throughout the full term of the Obligations and the Loan Documents. Any and all notices, pleadings or other communications (whether oral or written) from Lender and/or any agent, attorney or Affiliate of Lender to Borrower or any agent, attorney or Affiliate of Borrower shall be conclusively deemed, without the necessity of referencing this Loan Agreement and/or this Paragraph, to incorporate, for all purposes, the terms and provisions of this Paragraph. The term "applicable law" as used in Paragraph shall mean the laws of the United States or applicable state law, whichever laws allow the greater rate of interest, as such laws now exist or may be changed or amended or come into effect in the future.

Section II.8 Advances. Borrower shall notify Lender not later than 10:30 a.m. ten (10) Business Days in advance of a requested Advance, which notice shall specify the date on which the Advance should be made and the payment instructions with respect thereto. Lender agrees to make the requested Advance on the date requested pursuant to the instructions provided to the extent Borrower has provided Lender with reasonable assurances that the Advance is permitted under Section 6.20. Each Advance shall begin to accrue interest from and including the date of funding.

Article III
CONDITIONS FOR CLOSING AND FUNDING OF LOAN AND INITIAL ADVANCE

The obligation of Lender to make the initial Advance shall be subject to the satisfaction on or before the Closing Date of all of the conditions and the delivery of the documents set forth below in this Article III, the form and substance of each such document and the manner of the satisfaction of each such condition to be satisfactory to Lender:

Section III.1 Representations and Warranties. On the Closing Date and after giving effect to the initial Advance the representations and warranties of the Borrower set forth in this Loan Agreement and in any other of the Loan Documents shall be true and correct in all material respects when made and at and as of the time of the Closing, except to the extent that such representations and warranties expressly relate to an earlier date, in which case such representations and warranties shall continue to be true and correct as of such earlier date.

Section III.2 Delivery of Documents. The following shall have been delivered to Lender, each duly authorized and executed:

(a) all of the Loan Documents, which shall be in form and content acceptable to Lender.

(b) certificates representing all of the equity interests of Borrower in any Joint Ventures and a signed, undated stock power duly executed in blank for each such certificate, or UCC-1 financing statements in connection with the pledge of any such equity interests that are uncertificated;

(c) a certificate of incumbency for Borrower;

(d) a certificate of existence and good standing for Borrower and any initial Subsidiaries in the states in which Borrower or any such Subsidiary is organized and qualified to do business;

(e) certified copies of the articles of incorporation and bylaws, and all amendments thereto, of Borrower and any initial Subsidiary;

(f) certified copies of resolutions adopted by the board of directors of Borrower and any initial Subsidiary authorizing the execution by Borrower and such Subsidiary of the Loan Documents to which each is a party

and the consummation of the transactions contemplated therein; and

(g) such other documents, certificates, consents and waivers as Lender may request and evidence that all other actions necessary or, in the opinion of Lender, desirable have been taken.

Section III.3 Security Interests. All filings and actions necessary or, in the opinion of Lender, desirable to perfect and maintain the Security Interests purported to be created by the Loan Documents as valid and perfected Liens in the Property covered thereby, subject only to Permitted Liens, shall have been filed or taken and confirmation thereof received by Lender.

Section III.4 Performance; No Default. Each of the Borrower and any initial Subsidiaries shall have performed and complied with all agreements and conditions contained in the Loan Documents to be performed or complied with by Borrower or such Subsidiary prior to or at the Closing.

Section III.5 Approval of Loan Documents and Security Interests. The approval and/or consent shall have been obtained (and shall remain in effect) from each Governmental Body and all other Persons whose approval or consent is necessary or required to enable Borrower or any initial Subsidiary to (i) enter into and perform their respective obligations under the Loan Documents, (ii) grant to Lender the Security Interests and (iii) consummate the Loan.

Section III.6 Additional Items.

(a) No litigation, inquiry, judgement, injunction or restraining order shall be pending, entered or threatened (including any proposed statute, rule or regulation) which has a reasonable likelihood of being adversely determined and, if adversely determined, would reasonably be expected to have a Material Adverse Effect on (i) the business, assets, operations, condition (financial or otherwise) or prospects of Borrower, (ii) Borrower's ability to perform its obligations under the financing agreements or (iii) the rights and remedies of Lender.

(b) There shall not have occurred any change, or development or event involving a prospective change, which in either case in the reasonable opinion of Lender could have a Material Adverse Effect on (i) the business, operations, property, assets, liabilities, condition (financial or otherwise) or prospects of Borrower, or (ii) the rights and remedies of Lender.

(c) Lender shall not have become aware of any material adverse information with respect to (i) the business, operations, property, assets, liabilities, condition (financial or otherwise) or prospects of Borrower, (ii) Borrower's ability to perform its obligations under the financing agreements or (iii) the rights and remedies of Lender.

(d) There shall exist no event of default (or condition which would constitute an event of default with the giving of notice or the passage of time) under any capital stock, financing agreements, lease agreements or other contracts of Borrower.

(e) All filings and other actions required to create and perfect a first priority security interest with respect to assets owned by Borrower shall have been duly made or taken, and all Collateral shall be free and clear of other Liens, subject to Permitted Liens.

(f) Lender shall have determined that the transactions contemplated hereby or entered into in connection herewith, including without limitation, the

making of the Loan, do not violate and conflict with any applicable law or regulation in any material respect.

The acceptance of the initial Advance shall constitute a representation and warranty by Borrower and any initial Subsidiary to the Lender that all conditions specified in this Article III have been satisfied as of that time.

Article IV
CONDITIONS FOR FUTURE FUNDING COMMITMENTS

The obligations of Lender to make Advances subsequent to the initial Advance hereunder in connection with contributions by Borrower to each new Joint Venture shall be subject to the satisfaction on or before the date of such Advance of all the conditions and delivery of all the documents set forth in this Article IV, the form and substance of each such document and the manner of satisfaction of each such condition to be reasonably satisfactory to Lender:

Section IV.1 Representations Bringdown. The representations and warranties contained in Article VI of this Agreement are true and correct in all material respects on and as of the date of such Advance with the same effect as if made on and as of such date, except to the extent such representation and warranty expressly relates to a specific date, in which event it shall be true and correct as of such specific date. The representations and warranties contained in Article VII of this Agreement are true and correct as of the date of such Advance with the same effect as if made on and as of such date where any untrue or incorrect representation and warranty could have a Material Adverse Effect on the business, assets, operations or condition, financial or otherwise of Parent.

Section IV.2 No Default; Compliance With Terms. Borrower shall be in compliance with all other terms and provisions set forth herein and in each other Loan Document on its part to be observed or performed, and at the time of and immediately after such Advance no Potential Default or Event of Default shall have occurred and be continuing.

Section IV.3 Delivery of Documents.

(a) All filings and actions that are necessary, or in the opinion of Lender, desirable to perfect and maintain a Security Interest in Borrower's interest in the Joint Venture with respect to which the Advance relates, as a valid and perfected Lien in the Property covered thereby, subject only to Permitted Liens, shall have been filed or taken, and Lender shall have received confirmation thereof;

(b) Lender shall have received a certificate of incumbency for Borrower; and

(c) Lender shall have received such legal opinions (including opinions (i) from counsel to Borrower and its Subsidiaries, and (ii) from such special and local counsel as may be reasonably required by Lender, in each case reasonably acceptable to Lender) dated the date of the Advance, addressed to Lender addressing issues relating to the Security Interest created in the Borrower's Joint Venture interest and any other matters incident to the transactions contemplated hereby as Lender may reasonably require.

Section IV.4 Additional Items. Each of the items set forth in Section 3.6 shall be true and correct.

Article V
CONDITIONS FOR OTHER ADVANCES

The obligations of Lender to make Advances other than those identified in Article III and Article IV hereunder shall be

subject to the satisfaction on or before the date of such Advance of all the conditions and delivery of all the documents set forth in this Article V, the form and substance of each such document and the manner of satisfaction of each such condition to be reasonably satisfactory to Lender:

Section V.1 Representations Bringdown. The representations and warranties contained in Article VI of this Agreement are true and correct in all material respects on and as of the date of such Advance with the same effect as if made on and as of such date, except to the extent such representation and warranty expressly relates to a specific date, in which event it shall be true and correct as of such specific date. The representations and warranties contained in Article VII of this Agreement are true and correct as of the date of such Advance with the same effect as if made on and as of such date where any untrue or incorrect representation and warranty could have a Material Adverse Effect on the business, assets, operations or condition, financial or otherwise of Parent.

Section V.2 No Default; Compliance With Terms. Borrower shall be in compliance with all other terms and provisions set forth herein and in each other Loan Document on its part to be observed or performed, and at the time of and immediately after such Advance no Potential Default or Event of Default shall have occurred and be continuing.

Article VI
REPRESENTATIONS AND WARRANTIES OF BORROWER

In order to induce Lender to make the Loan, Borrower makes the following representations, warranties and agreements, in each case after giving effect to the making of the Loan, all of which shall survive the execution and delivery of this Agreement and the Note and the making of the Loan; provided, however, none of the representations and warranties contained in this Article V shall be deemed to relate to any matters or affairs derived from or based upon any activities, operations or occurrences relating to any Joint Venture.

Section VI.1 Organization and Good Standing. Borrower and each Subsidiary is duly organized, validly existing and in good standing under the laws of the state of its organization. Borrower and each Subsidiary has the requisite power and authority to own, lease or otherwise hold the assets owned, leased or otherwise held by it and to carry on its business as presently conducted by it. Borrower and each Subsidiary is in good standing and duly qualified to conduct business as a foreign corporation, partnership or limited liability company, as applicable, in every state of the United States in which its ownership or lease of property or conduct of business makes such qualification necessary.

Section VI.2 Authorization of Agreement; Binding Obligation. Borrower has the requisite corporate power to execute and to deliver this Agreement and the other Loan Documents and to perform the transactions contemplated hereby and thereby to be performed by it. The execution and delivery by Borrower of this Agreement and the other Loan Documents and the performance by it of the transactions contemplated hereby and thereby to be performed by it have been duly authorized by all necessary corporate action on the part of Borrower. This Agreement and the other Loan Documents have been duly executed and delivered by duly authorized officers of Borrower and constitute valid and binding obligations of Borrower and each Subsidiary that owns a Joint Venture interest that is a party thereto, enforceable against such Person in accordance with the terms hereof or thereof, except as may be limited by bankruptcy, insolvency, reorganization, moratorium or other similar laws affecting the enforcement of creditors' rights in general and subject to general principles of equity (regardless of whether such enforceability is considered in a proceeding in equity or at law).

Section VI.3 Required Consents. The execution and delivery of this Agreement and the other Loan Documents by Borrower does not, and the performance by Borrower of the transactions contemplated hereby or thereby to be performed by it will not (a) conflict with the certificate of incorporation or bylaws, partnership agreement, operating agreement, or other organizational documents, as applicable, of Borrower or any Subsidiary, (b) conflict with, or result in any violation of, or constitute a default (with or without notice or lapse of time, or both) under, or give rise to a right of termination, cancellation or acceleration of any material obligation or to loss of a benefit under, any material contract, permit, order, judgment or decree to which Borrower or any Subsidiary is a party or by which any of their properties are bound, (c) constitute a violation of any law or regulation applicable to Borrower or any Subsidiary, or (d) result in the creation of any lien, charge or encumbrance upon any of Borrower's or any Subsidiary's assets except, in the case of (a) through (d) hereof, for those that, individually or in the aggregate, could not reasonably be expected to have a material adverse effect (i) on the business, assets, financial condition, prospects, financial projections, or results of operations of Borrower and any Subsidiary taken as a whole or (ii) on the ability of Borrower to perform on a timely basis any material obligation under this Agreement or the other Loan Documents or to consummate the transactions contemplated hereby or thereby (each, a "Material Adverse Effect"). No consent, approval, order or authorization of, or registration, declaration or filing with, any Governmental Body is required to be obtained or made by or with respect to Borrower in connection with the execution and delivery of this Agreement or any of the other Loan Documents by Borrower or the performance by Borrower of the transactions contemplated hereby or thereby to be performed by it.

Section VI.4 Financial Statements. The financial statements to be delivered to Lender on or before ninety (90) days from the Closing Date by or on behalf of Borrower present fairly the financial condition and results of the operations of Borrower as of the dates and for the periods indicated therein. No material adverse change in the business, operations, property, assets, liabilities, condition (financial or otherwise) or prospects of Borrower has occurred since the date of the last financial statements delivered to Lender by or on behalf of Borrower. All of the foregoing financial statements and balance sheets, except as otherwise indicated therein, have been prepared in accordance with GAAP.

Section VI.5 Absence of Undisclosed Liabilities. Neither Borrower nor any Subsidiary has any Indebtedness for Borrowed Money or Contingent Obligations except for those permitted pursuant to Sections 10.1 and 10.4.

Section VI.6 Books of Account. The books, records and accounts of Borrower accurately and fairly reflect, in reasonable detail, the transactions and the assets and liabilities of Borrower and each Subsidiary and do not contain any material inaccurate information or omit any material information necessary in order to make such books, records and accounts, in light of the circumstances under which they were prepared, not misleading. Neither Borrower nor any Subsidiary has engaged in any transaction, maintained any bank account or used any of the funds of Borrower or any Subsidiary except for transactions, bank accounts and funds which have been and are reflected in the normally maintained books and records of Borrower.

Section VI.7 Title to Property; Liens. Borrower and each Subsidiary has good, valid and indefeasible title to all of its material Property free and clear of all Liens, except Permitted Liens. The Security Instruments create valid and perfected Liens on the Property described therein, subject only to Permitted Liens.

Section VI.8 Condition of Assets. All of the assets of Borrower and each Subsidiary, if any, are in good operating

condition and repair, subject to normal wear and maintenance, are usable in the regular and ordinary course of business and materially conform to all applicable laws, ordinances, codes, rules and regulations, and permits relating to their construction, use and operation.

Section VI.9 Insurance. Borrower and each Subsidiary has insurance policies in full force and effect for such amounts as are sufficient for material compliance with all requirements of law and of all material agreements to which Borrower or any Subsidiary is a party or by which any of them is bound. No event relating to Borrower or any Subsidiary has occurred that can reasonably be expected to result in a material retroactive upward adjustment in premiums under any such insurance policies or that is likely to result in a material prospective upward adjustment in such premiums. Excluding insurance policies that have expired and been replaced in the ordinary course of business, no insurance policy has been cancelled within the last two years and, to Borrower's knowledge, no threat has been made to cancel any insurance policy of Borrower or any Subsidiary during such period. No event has occurred, including, without limitation, the failure by Borrower or any Subsidiary to give any notice or information or Borrower or any Subsidiary giving any inaccurate or erroneous notice or information, which limits or impairs the rights of Borrower or any Subsidiary under any such insurance policies. Borrower has provided Lender with true and complete copies of all regularly prepared loss run reports as of the date hereof.

Section VI.10 Conduct of the Business. Except as permitted under Article X and except for the transactions contemplated by the Loan Documents and the other documents entered into between Borrower, Lender and Affiliates of Lender, from its date of formation through the Closing Date for the initial Advance or the date of any future Advance, as applicable, neither Borrower nor any Subsidiary has entered into any material transactions or conducted any material business.

Section VI.11 Litigation. There are no actions, suits, arbitration proceedings or claims (whether or not purportedly on behalf of Borrower or any Subsidiary) pending or, to the best knowledge of Borrower, threatened, against Borrower or any Subsidiary maintained by Borrower or any Subsidiary, at law or in equity (i) with respect to any Loan Document or (ii) which have a reasonable likelihood of being adversely determined and which, if adversely determined, could have a material adverse effect on the business, operations, Property, assets, liabilities, condition (financial or otherwise) or prospects of Borrower or any Subsidiary.

Section VI.12 Compliance With Law; Permits. Borrower and each Subsidiary has complied with each law, judgment, order and decree, including ERISA and environmental laws, of any Governmental Body to which Borrower or any Subsidiary or their business, operations, assets or properties is subject and is not currently in violation of any of the foregoing, except where the failure to so comply with or violation of any of the foregoing could not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect. Borrower and each Subsidiary owns, holds, possesses or lawfully uses in the operation of its business all material licenses, permits, authorizations and approvals (collectively, "Permits") which are necessary to conduct the business of Borrower and each Subsidiary as now conducted or for the ownership and use of its assets, free and clear of all Liens and in compliance with all laws. Neither Borrower nor any Subsidiary is in default, nor has Borrower or any Subsidiary received any notice of any claim of default, with respect to any such Permits. All such Permits are renewable by their terms or in the ordinary course of business without the need to comply with any special qualification procedures or to pay any amounts other than routine filing fees. None of such Permits will be adversely affected by consummation of the transactions contemplated hereby. No shareholder, director, officer, employee or former employee of Borrower or any affiliates of Borrower, or any other person, firm or corporation

owns or has any proprietary, financial or other interest (direct or indirect) in any Permits which Borrower or any Subsidiary owns, possesses or uses in the operation of the business of Borrower or any Subsidiary as now conducted.

Section VI.13 Taxes. (a) All Tax Returns (as defined in paragraph (e) below) that are required to be filed on or before the Closing Date by Borrower or any Subsidiary have been duly filed on a timely basis under the statutes, rules or regulations of each applicable jurisdiction. To the best knowledge of Borrower, all such Tax Returns were complete and accurate in all material respects. All Taxes reflected on such returns as owed by Borrower or any Subsidiary have been paid, whether or not such Taxes are disputed. Neither Borrower nor any Subsidiary has executed or filed with the Internal Revenue Service or any other taxing authority any agreement extending the period for filing any Tax Return.

(b) No claim for assessment or collection of Taxes has been asserted against Borrower or any Subsidiary. Neither Borrower nor any Subsidiary is a party to any pending action, proceeding or investigation by any Governmental Body for the assessment or collection of Taxes nor does Borrower have knowledge of any such threatened action, proceeding or investigation.

(c) No waivers of statutes of limitation in respect of any Tax Returns have been given or requested by Borrower or any Subsidiary nor has Borrower or any Subsidiary agreed to any extension of time with respect to a Tax assessment or deficiency. No claim has ever been made by a Governmental Body in a jurisdiction where Borrower or any Subsidiary does not currently file Tax Returns that it is or may be subject to taxation by that jurisdiction nor is Borrower aware that any such assertion of jurisdiction is threatened. No security interests have been imposed upon or asserted against any of the assets of Borrower or any Subsidiary as a result of or in connection with any failure, or alleged failure, to pay any Tax.

(d) Borrower and each Subsidiary has withheld and paid all Taxes required to be withheld in connection with any amounts paid or owing to any employee, creditor, consultant, independent contractor or other third party.

(e) For purposes of this Agreement, the terms "Tax" and "Taxes" shall mean all federal, state, local, or foreign income, payroll, employee withholding, unemployment insurance, social security, sales, use, service, service use, leasing, leasing use, excise, franchise, gross receipts, value added, alternative or add-on minimum, estimated, occupation, real and personal property, stamp, transfer, workers' compensation, severance, windfall profits, environmental (including taxes under Section 59A of the Code), or other tax of the same or of a similar nature, including any interest, penalty, or addition thereto, whether disputed or not. The term "Tax Return" means any return, declaration, report, claim for refund, or information return or statement relating to Taxes or any amendment thereto, and including any schedule or attachment thereto.

Section VI.14 Conflicting Agreements. Borrower is not in default under any agreement to which Borrower is a party or by which Borrower or any of its Property is bound, the effect of which default might have a material adverse effect on the business operations, Property, assets, liabilities, condition (financial or otherwise) or prospects of Borrower.

Section VI.15 Patents, Trademarks, Franchises, Etc. Borrower owns or possesses all patents, trademarks, service marks, trade names, copyrights, franchises and licenses, and rights with respect thereto, necessary for the conduct of its business as now conducted and as presently proposed to be conducted, without any known conflict with the rights of others and, in each case, free of any Lien other than Permitted Liens.

Section VI.16 Full Disclosure. No representation or

warranty contained herein and no certificate, information or report furnished or to be furnished by Borrower in connection with any of the Loan Documents or any of the transactions contemplated thereby, contains or will contain a misstatement of material fact, or omits or will omit a material fact required to be stated in order to make the statements contained herein or therein not misleading in the light of the circumstances under which such statements were made. There is no fact known to Borrower, or so far as Borrower presently reasonably can foresee, which has not been expressly disclosed to Lender in writing, that will materially adversely affect Borrower or its business, operations, Property, assets, liabilities, condition (financial or otherwise) or prospects or the ability of Borrower to consummate the transactions and perform its obligations pursuant to the Loan Documents, other than facts which generally are known to the public and relating to Borrower's business generally.

Section VI.17 Employee Matters. None of the employees of Borrower or any Subsidiary is subject to any collective bargaining agreement and there are no strikes, work stoppages or material controversies pending, or to the best knowledge of Borrower, threatened between Borrower or any Subsidiary and any of its respective employees, other than employee grievances arising in the ordinary course of business which would not in the aggregate be expected to have a material adverse effect on the business, operations, Property, assets, liabilities, condition (financial or otherwise) or prospects of Borrower and the Subsidiaries taken as a whole.

Section VI.18 Other Indebtedness. Borrower has not incurred and as of the Closing Date will not have incurred any Indebtedness for Borrowed Money or any Contingent Obligations other than the Indebtedness and Contingent Obligations permitted by Sections 10.1 and 10.4.

Section VI.19 Possession of Franchises, Licenses, Etc. Borrower and each Subsidiary possesses all franchises, certificates, licenses, permits, and other authorizations from each Governmental Body, free from unduly burdensome restrictions, that are necessary or advisable for the leasing, ownership, maintenance and operation of its respective properties and assets, and neither Borrower nor any Subsidiary is in violation of any thereof in any respect.

Section VI.20 Use of Proceeds. Proceeds of the Loan shall be used by Borrower solely for investment in the Joint Ventures, for payment of interest on the Loan, if required to be paid in cash, for investment in one or more Subsidiaries that invest in Joint Ventures, and for Pursuit Costs.

Article VII
REPRESENTATIONS AND WARRANTIES OF PARENT

In order to induce Lender to make the Loan, Parent makes the following representations, warranties and agreements, in each case after giving effect to the making of the Loan, all of which shall survive the execution and delivery of this Agreement and the Note and the making of the Loan; provided, however, none of the representations and warranties contained in this Article VII shall be deemed to relate to any matters or affairs derived from or based upon any activities, operations or occurrences relating to any Joint Venture.

Section VII.1 Organization; Powers. Parent (i) is duly organized, validly existing and in good standing under the laws of the state of its organization, (ii) has the requisite power and authority to own its property and assets and to carry on its business as now conducted and as proposed to be conducted and (iii) is qualified to do business in every jurisdiction where such qualification is required, except where the failure so to qualify would not have a Material Adverse Effect on its condition, financial or otherwise. Parent has the corporate or other equivalent power to execute, deliver and perform its obligations under this Agreement and the other Loan Documents to

which it is or is to be a party. Parent has all requisite corporate or other equivalent power, and has all material governmental licenses, authorizations, consents and approvals necessary to own its own assets and carry on its business as now being or as proposed to be conducted.

Section VII.2 Authorization. The execution, delivery and performance of this Agreement and the other Loan Documents to which Parent is or is to be a party (i) have been duly authorized by all requisite corporate or partnership, as applicable, and, if required, stockholder or partner, as applicable, action on the part of Parent and (ii) will not (A) violate (x) any Governmental Rule or Parent's Certificate of Incorporation and By-laws or (y) any provisions of any indenture, agreement or other instrument to which Parent is a party, or by which Parent or any of its properties or assets are or may be bound, (B) be in conflict with, result in a breach of or constitute (alone or with notice or lapse of time or both) a default under any indenture, agreement or other instrument referred to in (ii) (A) (y) above or (C) result in the creation or imposition of any Lien, charge or encumbrance of any nature whatsoever upon any property or assets of Parent.

Section VII.3 Governmental Approvals. No registration with or consent or approval of, or other action by, any Governmental Body is or will be required in connection with the execution, delivery and performance by Parent of this Agreement or any other Loan Document to which it is, or is to be, a party except such as have been made or obtained and are in full force and effect. Other than routine authorizations, permissions or consents which are of a minor nature and which are customarily granted in due course after application or the denial of which would not materially adversely affect the business, financial condition or operations of Parent, Parent has all franchises, licenses, certificates, authorizations, approvals or consents from all national, state and local governmental and regulatory authorities required to carry on its business as now conducted and as proposed to be conducted.

Section VII.4 Enforceability. This Agreement and each of the other Loan Documents to which Parent is a party constitutes a legal, valid and binding obligation of Parent, enforceable in accordance with their respective terms (subject, as to the enforcement of remedies against Parent, to applicable bankruptcy, reorganization, insolvency, moratorium and similar laws affecting creditors' rights against Parent, generally in connection with the bankruptcy, reorganization or insolvency of Parent or a moratorium or similar event relating to Parent.

Section VII.5 Financial Statements. Parent has heretofore furnished to Lender an audited consolidated balance sheet and statement of operations and changes in retained earnings and cash flow as of and for the fiscal year ended December 31, 1996 and 1997, and an unaudited consolidated balance sheet and statement of operations and cash flow as of and for the fiscal quarter ended March 31, 1998. All such balance sheets and statements of operations and cash flow present fairly the financial condition and results of operations of Parent and its subsidiaries as of the dates and for the periods indicated. Such financial statements and the notes thereto disclose all material liabilities, direct or contingent, of Parent and its subsidiaries as of the dates thereof which are required to be disclosed in the footnotes to financial statements prepared in accordance with GAAP. The financial statements referred to in this Section 7.5 have been prepared in accordance with GAAP. There has been no material adverse change since March 31, 1998, in the businesses, assets, operations, prospects or condition, financial or otherwise, of Parent and its subsidiaries taken as a whole.

Section VII.6 Litigation; Compliance with Laws; etc.

(i) Except as disclosed in the Parent Annual Report on Form 10-K for the fiscal year ended December 31, 1997, and any subsequent filings made by Parent pursuant to the periodic reporting requirements of the SEC, there are no

actions, suits or proceedings at law or in equity or by or before any Governmental Body now pending or, to the knowledge of Parent, threatened against or affecting Parent, or any of its subsidiaries or the businesses, assets or rights of Parent, or any of its subsidiaries (x) which involve this Agreement or any of the other Loan Documents or any of the transactions contemplated hereby or thereby or (y) as to which there is a reasonable possibility of an adverse determination and which, if adversely determined, could, individually or in the aggregate, materially impair the ability of Parent to conduct its business substantially as now conducted, or materially and adversely affect the businesses, assets, operations, prospects or condition, financial or otherwise, of Parent, or impair the validity or enforceability of, or the ability of Parent to perform its obligations under, this Agreement or any of the other Loan Documents to which it is a party.

(ii) Neither Parent nor any of its subsidiaries is in violation of any Governmental Rule, or in default with respect to any judgment, write, injunction, decree, rule or regulation of any Governmental Body, where such violation or default could result in a Material Adverse Effect. Without limitation of the foregoing, Parent and each of its subsidiaries have complied with all Environmental Laws where any such noncompliance could have a Material Adverse Effect on the business, assets, operations or condition, financial or otherwise, of Parent or its subsidiaries. Neither Parent nor any of its subsidiaries has received notice of any material failure so to comply. Neither Parent's nor its Subsidiaries' plants handle any Hazardous Materials in violation of any Environmental Law where any such violation could have a Material Adverse Effect on the business, assets, operations or condition, financial or otherwise of Parent. Parent is aware of no events, conditions or circumstances involving contaminants or employee health or safety that could reasonably be expected to result in material liability on the part of Parent or any of its subsidiaries.

Section VII.7 Title, etc. Parent and its subsidiaries have good and valid title to its material properties, assets and revenues (exclusive of oil, gas and other mineral properties on which no development or production activities are being conducted and commercially exploitable reserves have not been discovered), free and clear of all Liens (as such term is defined in Parent's Credit Agreement) except for the Permitted Liens (as such term is defined in Parent's Credit Agreement).

Section VII.8 Federal Reserve Regulations; Use of Proceeds. Neither Parent nor any of its subsidiaries is engaged principally, or as one of its important activities, in the business of extending credit for the purpose of purchasing or carrying Margin Stock.

Section VII.9 Taxes. Parent and its subsidiaries have filed or caused to be filed all material federal, state, local and foreign tax returns which are required to be filed by them, and have paid or caused to paid all taxes shown to be due and payable on such returns or on any assessments received by any of them, other than any taxes or assessments the validity of which Parent or any of its subsidiaries is contesting in good faith by appropriate proceedings, and with respect to which Parent or any of its subsidiaries shall, to the extent required by GAAP, have set aside on its books adequate reserves.

Section VII.10 Employee Benefit Plans. Parent and its ERISA Affiliates are in compliance in all material respects with the applicable provisions of ERISA and the Code and the regulations and published interpretations thereunder. No ERISA Event has occurred or is reasonably expected to occur that, when taken together with all other such ERISA Events, could materially and adversely affect the financial condition and operations of Parent and its ERISA Affiliates, taken as a whole. The present value of all benefit liabilities under each Plan, determined on a

plan termination basis (based on those assumptions used for financial disclosure purposes in accordance with Statement of Financial Accounting Standards No. 87 of the Financial Accounting Standards Board ("SFAS 87")), did not, as of the last annual valuation date applicable thereto, exceed by more than $5,000,000 the value of the assets of such Plan, and the present value of all benefit liabilities of all underfunded Plans, determined on a plan termination basis (based on those assumptions used for financial disclosure purposes in accordance with SFAS 87), did not, as of the last annual valuation dates applicable thereto, exceed by more than $5,000,000 the value of the assets of all such underfunded Plans.

Section VII.11 Investment Company Act. Neither Parent nor any of its subsidiaries is an "investment company" as defined in, or subject to regulation under, the Investment Company Act of 1940, as amended from time to time.

Section VII.12 Public Utility Holding Company Act. Neither Parent nor any of its subsidiaries is a "holding company", or a "subsidiary company" of a "holding company", or an "affiliate" of a "holding company", or of a "subsidiary company" of a "holding company", within the meaning of the Public Utility Holding Company Act of 1935, as amended from time to time.

Section VII.13 Environmental Matters.

(i) The properties of Parent and its subsidiaries are in compliance, and in the last three years have been in compliance, with all Environmental Laws, and all necessary Environmental Permits have been obtained and are in effect, and are not the subject of any pending or threatened challenge by any Governmental Body or Person, except to the extent that such noncompliance, challenge or failure to obtain any necessary permits, in the aggregate, could not reasonably be expected to result in a Material Adverse Effect.

(ii) There have been no Releases or threatened Releases at, from, under or proximate to its properties or otherwise in connection with the operations of Parent or its subsidiaries, which Releases or threatened Releases, in the aggregate, could reasonably be expected to result in a Material Adverse Effect.

(iii) Neither Parent nor any of its subsidiaries has received any notice of an Environmental Claim in connection with its properties or the operations of Parent or its subsidiaries or with regard to any Person whose liabilities for environmental matters Parent or its subsidiaries has retained or assumed, in whole or in part, contractually, by operation of law or otherwise, which, in the aggregate, could reasonably be expected to result in Material Adverse Effect, nor does Parent nor its subsidiaries have reason to believe that any such notice will be received or is being threatened.

(iv) Hazardous Materials have not been transported from the properties of Parent or its subsidiaries, nor have Hazardous Materials been generated, treated, stored or disposed of at, on or under any of such properties in a manner that could give rise to liability under any Environmental Law, nor has Parent nor any of its subsidiaries retained or assumed any liability, contractually, by operation of law or otherwise, with respect to the generation, treatment, storage or disposal of Hazardous Materials, which transportation, generation, treatment, storage or disposal, or retained or assumed liabilities, in the aggregate, could reasonably be expected to result in a Material Adverse Effect.

Section VII.14 No Material Misstatements. No information, report (including any exhibit, schedule or other attachment thereto or other document delivered in connection therewith), financial statement, exhibit or schedule prepared or

furnished by Parent to Lender in connection with this Agreement or any of the other Loan Documents or included therein contained or contains any material misstatement of fact or omitted or omits to state any material fact necessary to make the statements therein, taken as a whole in the light of the circumstances under which they were made, not misleading.

Article VIII
REPRESENTATIONS AND WARRANTIES OF LENDER

Lender makes the following representations, warranties and agreements, all of which survive the execution and delivery of this Agreement and the Note and the making of the Loan.

Section VIII.1 Investment Intent, etc. Lender is acquiring the Note for its own account for investment and not with a view to, or for sale or other disposition in connection with any distribution thereof, not with any present intention of selling or otherwise disposing of the same.

Section VIII.2 Sophistication; Financial Strength, etc. Lender is an Accredited Investor (as that term is defined in Rule 501 promulgated by the Securities Exchange Commission (the "SEC")) under the Securities Act of 1933, as amended (the "Securities Act"), with such knowledge and experience in business and financial matters as to be capable of evaluting the merits and risks of the investment contemplated to be made hereunder. Lender has sufficient financial strength to hold the Note as an investment and to bear the economic risks of such investment (including possible loss of such investment) for an indefinite period of time.

Section VIII.3 Restrictions on Transfer. Lender understands that neither the Note nor the Parent Common Stock into which the Note is convertible has been registered under the Securities Act or the securities laws of any jurisdiction and that neither the Note nor such Parent Common Stock may be offered for sale, sold, transferred or otherwise disposed of unless registered under the Securities Act and any applicable state securities laws or Lender delivers to Borrower an opinion of counsel reasonably acceptable to Borrower to the effect that the proposed offer, sale, transfer or other disposition is exempt from registration. Lender understands that Borrower has no obligation to register the Note for distribution under the Securities Act or the securities laws of any jurisdiction and that Borrower has not agreed to comply with any exemption under the Securities Act or the securities laws of any jurisdiction respecting the resale or other transfer of the Note.

Article IX
AFFIRMATIVE COVENANTS

Borrower hereby covenants and agrees that until all of the Obligations are paid and performed in full:

Section IX.1 Legal Existence. Borrower and each Subsidiary then holding a Joint Venture interest will maintain its corporate or other legal existence and good standing in the jurisdiction of its incorporation or organization and maintain its good standing and authorization to do business in each jurisdiction in which the failure so to qualify would have a material adverse effect on the business, operations, Property, assets, liabilities, condition (financial or otherwise) or prospects of such Obligor.

Section IX.2 Inspection; Audit.

(a) Borrower will, upon forty eight (48) hours notice, permit representatives of Lender to visit its offices to (i) examine the books and records thereof (including, without limitation, all accounts payable and accounts receivable detail ledgers, all payroll records, all bank statements and other documents, ledgers, statements or

instruments Lender may deem necessary or desirable) and accountants' reports relating thereto, (ii) make copies or extracts therefrom, (iii) discuss the affairs of Borrower with the employees thereof, (iv) examine and inspect the Property of Borrower, and (v) meet and discuss the affairs of Borrower with its principal outside accountants.

(b) Upon forty eight (48) hours notice, representatives of Lender shall have the right to conduct an audit of the books of Borrower.

Section IX.3 Financial Statements and Other Information. Borrower shall maintain a standard system of accounting in accordance with GAAP and furnish to Lender:

(a) Financial Statements. As soon as available and in any event within ninety (90) days after the close of each year, a copy of each of the following for Borrower: (1) the balance sheet as of the end of such year, and (2) the statements of operations, cash flow, and shareholder's equity for such year setting forth in each case in comparative form the corresponding figures for the preceding year (the balance sheet and the statements of operations, cash flow and shareholder's equity hereinafter are referred to as the "Basic Financial Statements"), all in reasonable detail, and in each case, prepared by or on behalf of Borrower and accompanied by an opinion of the accountants (which accountants shall be an accounting firm of nationally recognized standing, (hereinafter, the "Accountants")), together with a certificate of the accountants which shall state that (A) the examination by the accountants in connection with such Basic Financial Statements has been made in accordance with generally accepted auditing standards and, accordingly, included such tests of the accounting records and such other auditing procedures as were considered necessary in the circumstances, (B) such Basic Financial Statements have been prepared in accordance with GAAP and that such GAAP in accordance with which such Basic Financial Statements were prepared are consistent with those applied in prior fiscal periods, and (C) such Basic Financial Statements fairly present, in all material respects, the financial position of Borrower and its Subsidiaries (on a consolidated basis).

(b) Audit Reports. Promptly upon receipt thereof, a copy of each report, other than the reports referred to in subsection (a) above, including any so-called "Management Letter" or similar report, submitted to Borrower by the Accountants in connection with any annual, interim or special audit made by the Accountants of the books of the Company.

(c) Notice of Defaults. Immediate written notice if: (i) any Indebtedness of Borrower or any Subsidiary is declared or shall become due and payable prior to its declared or stated maturity, or called and not paid when due, (ii) the holder of any note, or other evidence of Indebtedness, certificate or security evidencing any such Indebtedness of Borrower or any Subsidiary has the right to declare such Indebtedness due and payable prior to its stated maturity, or (iii) there shall occur and be continuing a Potential Default or Event of Default, accompanied by a statement of the Chief Financial Officer setting forth what action Borrower proposes to take in respect thereof.

(d) Notice of Suits, Adverse Events. Prompt written notice of: (i) any citation, summons, subpoena, order to show cause or other order naming Borrower or any Subsidiary as a party to any proceeding before any Governmental Body which may have a material adverse effect on the business, operations, Property, assets, liabilities, condition (financial or otherwise) or prospects of Borrower or any Subsidiary, and include with such notice a copy of such citation, summons, subpoena, order to show cause or

other order, (ii) any lapse or other termination of any license, permit, franchise or other authorization issued to Borrower or any Subsidiary by any Governmental Body, (iii) any refusal by any Governmental Body to renew or extend any license, permit, franchise or other authorization of Borrower or any Subsidiary, and (iv) any dispute between Borrower or any Subsidiary and any Governmental Body, which lapse, termination, refusal or dispute, referred to in clauses (ii), (iii) or (iv) above, has a reasonable likelihood of being adversely determined and, if adversely determined, could have a material adverse effect on the business, operations, Property, assets, liabilities, condition (financial or otherwise) or prospects of Borrower, in each case excluding matters (A) relating solely to the Joint Ventures and (B) with respect to which Borrower is made aware by Lender.

(e) Other Information. Promptly upon request therefor by Lender, such other information and reports relating to the past, present or future financial condition, operations, plans and projections of Borrower and the Subsidiaries as Lender from time to time reasonably may request.

Section IX.4 Insurance. Maintain or cause to be maintained insurance against such other risks of the kinds and amounts customarily insured against by similarly situated companies and such other insurance as is required to conform with the requirements of this Agreement. Such insurance shall, where applicable, include but not be limited to, (a) workers' compensation and employer's liability insurance and (b) comprehensive general liability insurance. Lender shall be provided a waiver of subrogation with respect to the insurance described in the foregoing clause (a).

Section IX.5 Maintenance of Patents and Licenses. Maintain in force at all times, all patents, trademarks, trade names, licenses, approvals, permits and agreements necessary or desirable for the continuation the businesses of Borrower and the Subsidiaries.

Section IX.6 Payment of Taxes. Timely file all tax returns required to be filed by or with respect to Borrower and the Subsidiaries; timely pay all taxes that are due, or claimed or asserted by any taxing authority to be due from or with respect to Borrower and the Subsidiaries (other than taxes which are contested in good faith and as to which adequate reserves have been established in Borrower's and the Subsidiaries' financial statements in accordance with GAAP); make all estimated tax payments sufficient to avoid underpayment penalties; and withhold and timely pay to the applicable taxing authority all taxes required by all applicable laws to be withheld or paid in connection with any amounts paid or owing to any employee, creditor, independent contractor or other third party.

Section IX.7 Advances. Borrower and each Subsidiary shall use any and all amounts received as an Advance solely for the purposes of investing in a Joint Venture, except as otherwise expressly permitted in this Loan Agreement.

Article X
NEGATIVE COVENANTS

Until all of the Obligations are paid and performed in full Borrower will not:

Section X.1 Borrowing. Following the Closing Date, create, incur or assume any liability for Indebtedness for Borrowed Money owed by Borrower or any Subsidiary, except (a) the Note, (b) trade debt incurred in the ordinary course of business, (c) any guarantee of Indebtedness for Borrower Money of a Joint Venture (which Indebtedness for Borrowed Money may be senior to the Loan), and (d) any Indebtedness owed by Borrower to Parent

relating to (i) advances made by Parent to Borrower for the payment by Borrower of taxes or interest on the Loan or in connection with the making of a contribution by Borrower to a Joint Venture following the drawdown by Borrower of all amounts permitted or required to be drawn under the Loan and (ii) reimbursement obligations owed by Borrower to Parent in connection with letters of credit, surety bonds and other credit enhancements provided by Parent on behalf of Borrower or any Joint Venture; provided, that any such Indebtedness for Borrower Money owed by Borrower to Parent shall be subordinated to the Loan in a manner reasonably acceptable to Lender.

Section X.2 Liens. Create, incur, assume or suffer to exist any Lien upon any of the Property of Borrower or any Subsidiary, whether now owned or hereafter acquired, except Permitted Liens.

Section X.3 Merger and Acquisition. Consolidate with or merge into any Person, or acquire all or substantially all of the capital stock or Property of any Person, other than (a) any such activity relating to an acquisition of or investment in a Joint Venture, and (b) the creation or acquisition of a Subsidiary to the extent that either (i) the Borrower is not liable for any Indebtedness for Borrowed Money of such Subsidiary, except as permitted pursuant to Section 10.1 hereof, or (ii) such Subsidiary is or is intended to be involved as a partner, member or other equity interest owner in a Joint Venture.

Section X.4 Contingent Liabilities. Assume, guarantee, endorse, contingently agree to purchase, become liable in respect of any letter of credit, or otherwise become liable upon the obligation of any Person, except (i) liabilities arising from the endorsement of negotiable instruments for deposit or collection or similar transactions in the ordinary course of business, (ii) any liability permitted under Section 10.1 and (iii) any such liabilities in connection with or in support of the activities of a Joint Venture, which such obligations may be senior to the Loan.

Section X.5 Dividends and Other Distributions . Declare or pay any dividends or apply any of its Property to the purchase, redemption or other retirement of, or set apart any sum for the payment of any dividends on, or make any other distribution by reduction of capital or otherwise in respect of, any shares of its capital stock, or pay or transfer to any Affiliate any money or Property of Borrower, other than (a) payments or transfers of money or Property to Joint Ventures and/or to Subsidiaries in connection with Joint Ventures, and (b) any amounts paid to Parent as a dividend or as a repayment on a loan from Parent to Borrower to the extent and only to the extent permitted by Sections 2.3(d), (e), or (f). Furthermore, Borrower shall not declare, order, make, pay or set apart any sum for any Restricted Junior Payment, except as permitted by the previous sentence.

Section X.6 Scope of Borrower's Business. Borrower shall not, and shall cause its Subsidiaries not to, engage in any business activities other than the investment in Joint Ventures and activities reasonably related to the Joint Ventures, except to the extent that (i) Borrower or its Subsidiaries have made other investments that are either funded entirely with capital from Borrower, any Subsidiary, Parent or another affiliate of Parent or (ii) Borrower and Parent have complied with the process set forth in Article II of the Master Agreement.

Section X.7 Payments on Certain Indebtedness. Make any voluntary or optional prepayment of any Indebtedness for Borrowed Money permitted to exist under the terms of this Loan Agreement except the Note and except as otherwise permitted by Section 2.3(d), (e) or (f).

Section X.8 Amendment of Certificate of Incorporation, etc. Amend, modify or waive any term or provision of its certificate of incorporation or bylaws, unless required by

law.

Section X.9 Issuance, Conversion and Sale of Stock. Issue or sell any shares of its capital stock or securities of Borrower or any Subsidiary convertible into or exercisable for any shares of its capital stock, or permit the conversion of any shares of any class of its capital stock to shares of any other class of its capital stock, except to the extent that following any such transaction Parent directly or indirectly owns one hundred percent (100%) of the outstanding shares or other equity interests in Borrower and Borrower directly or indirectly owns one hundred percent (100%) of the outstanding shares or other equity interests in all Subsidiaries.

Section X.10 Transactions with Affiliates. Sell, lease, assign, transfer or otherwise dispose of any Property of Borrower or any Subsidiary to any Affiliate of Borrower or such Subsidiary, or lease such Property, render or receive services or purchase assets from any Affiliate, except for administrative services in the ordinary course of business and on terms and conditions substantially as favorable to Borrower or such Subsidiary as would reasonably be obtained by Borrower or such Subsidiary at that time in a comparable arm's-length transaction with a Person other than an Affiliate.

Article XI
DEFAULT AND REMEDIES

Section XI.1 Events of Default. The occurrence of any of the following shall constitute an Event of Default under the Loan Documents:

(a) Default in Payment. If Borrower shall fail to pay all or any portion of the Obligations within three (3) Business Days after receipt by Borrower of written notice from Lender that the same has become due and payable.

(b) Pledge. Borrower shall default in the due performance or observance of any term, covenant or agreement on its part to be performed or observed pursuant to the Security Documents.

(c) Breach of Covenants.

(i) If Borrower shall fail to observe or perform any covenant or agreement made by Borrower contained in Article IX or in Article X, and such failure shall continue for a period of twenty (20) days after notice thereof is given by Lender; or

(ii) If Borrower shall fail to observe or perform any covenant or agreement made by Borrower in any of the Loan Documents to which Borrower is a party, and such failure shall continue for a period of thirty (30) days after notice thereof is given by Lender.

(d) Breach of Representation and Warranty. Any representation or warranty made by Borrower in or pursuant to any of the Loan Documents to which Borrower is a party or in any instrument or document furnished in compliance with the Loan Documents shall prove to be false or misleading in any material respect on the date as of which made, except to the extent that such breach of representation or warranty could reasonably be expected to have a material adverse effect on the business, operations, Property, assets, liabilities, conditions (financial or otherwise) or prospects of Borrower and the Subsidiaries, taken as a whole.

(e) Bankruptcy, Etc.

(i) If following the Closing Date, Borrower shall (1) generally not be paying its debts as they

become due, (2) file, or consent by answer or otherwise to the filing against it, of a petition for relief or reorganization or arrangement or any other petition in bankruptcy or insolvency under the laws of any jurisdiction, (3) make an assignment for the benefit of its creditors, (4) consent to the appointment of a custodian, receiver, trustee or other officer with similar powers for itself or for any substantial part of its Property, (5) be adjudicated insolvent or (6) take corporate action for the purpose of any of the foregoing.

(ii) If any Governmental Body of competent jurisdiction shall enter an order appointing, without consent of Borrower, a custodian, receiver, trustee or other officer with similar powers with respect to Borrower or with respect to any substantial part of the Property belonging to Borrower, or if an order for relief shall be entered in any case or proceeding for liquidation or reorganization or otherwise to take advantage of any bankruptcy or insolvency law of any jurisdiction, or ordering the dissolution, winding-up or liquidation of Borrower, or if any petition for any such relief shall be filed against Borrower, and such petition shall not be dismissed within thirty (30) days.

(f) Judgments. If there shall exist final judgments against Borrower which shall have been outstanding for any period of thirty (30) days or more from the date of the entry thereof and shall not have been discharged in full or stayed pending appeal.

(g) Pledge or Encumbrance. If any of the Property of Borrower shall be transferred, assigned, pledge or encumbered in any respect except as expressly permitted by the Loan Documents.

Section XI.2 Acceleration of the Obligations. Upon the occurrence and during the continuance of any Event of Default, Lender, at any time at its option, may declare all of the Obligations due and payable, whereupon, the Obligations immediately shall mature and become due and payable, all without presentment, demand, protest, notice of intent to accelerate, notice of acceleration or any other notice, all of which hereby are waived.

Section XI.3 Remedies on Default. If any of the Obligations have been accelerated pursuant to Section 11.2, Lender, at its option, may:

(a) Enforcement of Security Interests. Enforce the rights and remedies under the Security Instruments in accordance with their respective terms.

(b) Other Remedies. Enforce any of the rights or remedies granted to Lender under any other Loan Document and any other rights or remedies accorded to Lender at equity or law, by virtue of statute or otherwise.

Section XI.4 Application of Funds. Any funds received by Lender pursuant to the exercise of any rights accorded to Lender pursuant to, or by the operation of any of the terms of, any of, the Loan Documents after the acceleration of the Obligations, including, without limitation, proceeds from the sale of Collateral, shall be applied by the Lender first, to the payment of the Obligations, in such order and manner as Lender shall elect, and the balance, if any, shall be distributed to Borrower.

Section XI.5 Reinstatement Following Event of Default. To the extent that, following the occurrence of an Event of Default, whether or not the Obligations have been accelerated by Lender, Borrower cures and/or Lender waives all Events of Default such that no Event of Default is in effect at

such time, then the acceleration of the Obligations shall be reversed and all rights and obligations of Lender and Borrower under this Agreement and all of the Loan Documents shall be reinstated as of the time immediately preceding the occurrence of the original Event of Default.

Section XI.6 Nonrecourse as to Borrower . Notwithstanding anything to the contrary contained herein, Lender agrees that the sole recourse of Lender against Borrower for the payment or performance of the Obligations shall be to the Collateral, and no other property or assets of Borrower shall be subject to levy, execution, or other enforcement procedure for the payment or performance of the Obligations; provided, however, that the foregoing provisions shall not (a) constitute a release, reduction, discharge, or waiver of any of the Obligations, (b) limit the right of Lender to name Borrower as a party defendant in any action or suit for judicial foreclosure and sale under this Agreement, so long as no judgment in the nature of a deficiency judgment shall be enforced again Borrower, except to the extent of the Collateral, or (c) in any way be construed to release, reduce, discharge, terminate, limit, or otherwise affect or impair the Security Interests created under this Agreement or any of the other Loan Documents. Notwithstanding the foregoing, Borrower shall be fully liable to Lender for damages suffered by Lender as a result of (x) the intentional or willful fraud or misrepresentation by or on behalf of Borrower in connection with the performance of its obligations under this Agreement and (y) the intentional misapplication of any proceeds of the Collateral, including, without limitation, the retention or application of dividends, distributions, or interest in violation of Section 10.5 hereof. Lennder covenants not to sue Borrower with respect to this Loan Agreement or any provisions hereof except as provided in this Section 11.6.

Section XI.7 Nonrecourse as to Parent. Notwithstanding anything to the contrary contained herein, Lender agrees that: (a) Parent has appeared as a party to this Agreement solely for the purpose of acknowledging the provisions of Article XIV of this Agreement, (b) Lender shall have no recourse to Parent for the payment or performance of any of the Obligations identified herein, excluding any of Parent's obligations pursuant to Article XIV and (c) Lender shall not sue Parent with respect to this Loan Agreement or any provisions hereof, except for a breach of Parent's obligations pursuant to Article XIV.

Section XI.8 Subordination. Lender acknowledges that the lenders to certain of the Joint Ventures may require guarantees or other similar commitments on the part of the Borrower or the Subsidiaries and/or Liens upon certain assets of the Borrower or the Subsidiaries, including the Borrower's direct or indirect interest in the Joint Venture. Lender acknowledges that such lenders may require that such guarantees and Liens be senior to the Obligations and the Security Interests.

Section XI.9 Termination and Release. At any time after the aggregate of all Advances hereunder exceeds $7,500,000, Borrower may notify Lender in writing of its desire to terminate Lender's commitment to make further Advances hereunder, at which time such commitment will automatically terminate. Upon the satisfaction of all Obligations hereunder and the termination of Lender's commitment to make Advances, Lender, upon written request for Borrower, shall release all Security Interests in the Collateral.

Section XI.10 Restrictive Legends. The Note and the certificates representing the Parent Common Stock into which the Note is convertible shall be stamped or otherwise imprinted with a legend in substantially the following form:

> THE SECURITIES REPRESENTED BY THIS CERTIFICATE HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED, OR ANY STATE SECURITIES LAW, AND THUS MAY NOT BE OFFERED FOR SALE, SOLD, TRANSFERRED OR OTHERWISE DISPOSED OF UNLESS REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED, AND QUALIFIED FOR OFFERING AND

SALE UNDER APPROPRIATE STATE BLUE SKY OR SECURITIES LAWS, OR UNLESS THE HOLDER HAS DELIVERED TO THE COMPANY AN OPINION OF COUNSEL, REASONABLY ACCEPTABLE TO THE COMPANY THAT SUCH REGISTRATION AND QUALIFICATION ARE NOT REQUIRED.

Article XII
GENERAL PROVISIONS

Section XII.1 Role of Lender. Any term or condition of any of the Loan Documents to the contrary notwithstanding, Lender shall not have, and by Lender's execution and acceptance of this Loan Agreement hereby expressly disclaims, any obligation, liability or responsibility for the management, conduct or operation of the business and affairs of Borrower or any of the Collateral. Furthermore, Borrower acknowledges and agrees that in no event shall Lender be deemed a mortgagee in possession with regard to any of the Collateral by virtue of the exercise of Lender's rights and remedies under this Loan Agreement. Lender shall not have, has not assumed and, by Lender's execution and acceptance of this Loan Agreement, hereby expressly disclaims any liability or responsibility for the payment or performance of any indebtedness or obligations of Borrower or any owner of the Collateral, and no term or condition of any of the Loan Documents shall be construed otherwise. Borrower hereby expressly acknowledges that no term or condition of any of the Loan Documents shall be construed so as to render the relationship between Borrower and Lender other than that of borrower, pledgor and lender. Borrower shall at all times represent that the relationship between Borrower and Lender is solely that of borrower and lender. Borrower hereby indemnifies and agrees to hold Lender harmless from and against any cost, expense or liability incurred or suffered by Lender as a result of any assertion or claim of any obligation or responsibility of Lender for the management, operation or conduct of the business and affairs of Borrower or as a result of any assertion or claim of any liability or responsibility of Lender for the payment or performance of any indebtedness or obligation of Borrower.

Section XII.2 Defense of Actions. Lender may (but shall not be obligated to) commence, appear in, or defend any action or proceeding purporting to affect the Loan, the Collateral, or the respective rights and obligations of Lender, Borrower pursuant to the Loan Documents. Lender may (but shall not be obligated to) pay all necessary expenses, including reasonable attorneys' fees and expenses, incurred in connection with such proceedings or actions, for which Borrower agree to reimburse Lender upon demand and which amount shall be a part of the Obligations.

Section XII.3 Indemnification; Subrogation. If Lender is made a party to any litigation concerning the Note, any of the other Loan Documents, any of the Collateral or any interest therein, or the occupancy or use of any of the Collateral by Borrower, then Borrower shall indemnify, defend and hold Lender harmless from all liability by reason of said litigation including reasonable attorneys' fees and expenses incurred by Lender as a result of any such litigation, whether or not any such litigation is prosecuted to judgment. Lender may employ an attorney or attorneys to protect its rights hereunder, and in the event of such employment following any breach by Borrower hereunder, Borrower shall pay Lender reasonable attorneys' fees and expenses incurred by Lender, whether or not an action is actually commenced against Borrower by reason of its breach.

Section XII.4 Waiver of Offset. All sums payable pursuant to the Loan Documents shall be paid without notice, demand, counterclaim, setoff, deduction or defense and without abatement, suspension, deferment, diminution or reduction, and the obligations and liabilities under the Loan Documents shall in no way be released, discharged or otherwise affected (except as expressly provided therein) by reason of: (i) any damage to or destruction of or any condemnation or similar taking of the

Collateral, or any part thereof; (ii) any restriction or prevention of or interference by any third party with any use of the Collateral or any part thereof; (iii) any title defect or encumbrance or any eviction from the Collateral any part thereof by superior title or otherwise; (iv) any bankruptcy, insolvency, reorganization, composition, adjustment, dissolution, liquidation or other like proceeding relating to Lender, or any action taken with respect to the Obligations or the liens, mortgages, security interests or assignments securing the Obligations by any trustee or receiver of Lender, or by any court, in any such proceeding; (v) any claim which Borrower has or might have against Lender; or (vi) any default or failure on the part of Lender to perform or comply with any of the terms hereof or of any other Loan Document.

Section XII.5 Sole Benefit. This Loan Agreement is intended solely for the benefit of the parties hereto, and no tenants, shareholders, warrantholders, employees, vendors, contractors, mechanic's lien claimants, purchasers or any other third parties shall have any rights under this Loan Agreement, nor be entitled to insist upon performance of the obligations arising hereunder.

Section XII.6 Conflicts and Construction. The parties acknowledge and agree that (a) each party and its counsel have reviewed and revised this Loan Agreement and the other Loan Documents and negotiated the terms and provisions thereof, and this Loan Agreement and the other Loan Documents shall be construed without the aid of any canon or rule of law requiring interpretation against the party drafting or causing the drafting of an agreement or portions of an agreement in question, (b) Borrower have not received from Lender, and Lender has not received from Borrower, any accounting, tax, legal, financial or other advice, and (c) each party has relied solely upon the advice of its own accounting, tax, legal, financial and other advisors. The benefits, rights and remedies of Lender and the security contained in or provided for in the Loan Documents are cumulative; provided, however, that to the extent of any conflict, inconsistency or ambiguity, if any, between the terms and provisions of this Loan Agreement and the other Loan Documents, the terms and provisions of this Loan Agreement shall control unless the applicable provisions of the other Loan Documents increase the rights of Lender, in which event, to the maximum extent permitted by applicable law, the terms and provisions of the other Loan Documents shall control.

Article XIII
EXPENSES AND INDEMNITIES

Section XIII.1 Attorney's Fees and Other Expenses. Borrower agrees to pay to Lender on demand all reasonable fees and expenses or other cost or expenses incurred by Lender in connection with the enforcement or collection against Borrower of any provision of any of the Loan Documents, whether or not suit is instituted, including, but not limited to, such costs or expenses arising from the enforcement or collection against Borrower of any provision of any of the Loan Documents in any state or Federal bankruptcy or reorganization proceeding.

Section XIII.2 Indemnity. Subject to the provisions of Section 11.6 hereof, Borrower hereby agrees to indemnify and save Lender harmless of and from the following, except to the extent that any of the actions described below are found by a court of competent jurisdiction in a final decision which no longer is subject to appeal to be the result of the gross negligence or willful or wanton misconduct of Lender:

(a) Brokerage Fees. The fees, if any, of brokers and finders retained by Borrower or any Subsidiary.

(b) Securities Violations. Any loss, cost, liability, damage or expense (including attorneys' fees and expenses) incurred by Lender in investigating, preparing

for, defending against, or providing evidence, producing documents or taking other action in respect of any commenced or threatened litigation, administrative proceeding or investigation under any Federal securities law or any other securities law of any jurisdiction, or any regulation, or at common law or otherwise, relating, either directly or indirectly, to the transactions contemplated by the Loan Documents.

(c) Operation of Collateral; Joint Venturers. Any loss, cost, liability, damage or expense (including attorneys' fees and expenses) incurred in connection with the ownership, operation or maintenance of the Collateral, the construction of Lender and Borrower as having the relationship of joint venturers, or partners or the determination that any of Lender or Borrower has acted as agent for the others.

(d) Representations. Any loss, cost, liability, damage or expense (including attorneys' fees and expenses) suffered and/or incurred at any time by Lender as a result of or in connection with any failure of the representations and warranties made by Borrower in the Loan Documents to be true and correct.

Article XIV
CONVERSION RIGHTS; EXIT FEE

Section XIV.1 Conversion.

(a) Obligation to Convert Debt. Lender may, in its sole and absolute discretion, elect to convert all outstanding Obligations, or any portion thereof, from debt into Parent Common Stock. Parent and Lender each agree, in the event Lender notifies Parent of its election to effect a conversion in accordance with Section 2.4 and this Article XIV (a "Conversion"), to take all corporate actions necessary to cause such a Conversion subject to the Conversion Limitations set forth in Section 14.2.

(b) Conversion Price. In connection with any Conversion, Lender will receive the number of shares of Parent Common Stock derived in accordance with the following formula:

> Shares of Parent Common Stock = Obligations being converted in accordance with Section 2.4, divided by the Stock Price, subject to the Conversion Limitations set forth in Section 14.2.

Any Obligations of Borrower that are converted to Parent Common Stock by Lender pursuant to Section 2.4 and this Article XIV shall immediately be deemed to have been satisfied and extinguished and shall thereafter cease to accrue interest.

Section XIV.2 Conversion Limitations. If at the time of any Conversion the number of shares of Parent Common Stock to be issued upon such Conversion, when added to the number of shares of Parent Common Stock issued in any prior Conversion would exceed Nineteen and Nine-Tenths Percent (19.9%) of the aggregate number of shares of Parent Common Stock issued and outstanding as of the Effective Date (the "19.9% Threshold"), the number of shares of Parent Common Stock in excess of the 19.9% Threshold shall not be issued. Instead, Parent shall pay to Lender cash in an amount equal to the average of the Market Value on the ten (10) trading days immediately prior to the date of Conversion multiplied by 0.95 for each share of Parent Common Stock in excess of the 19.9% Threshold.

Section XIV.3 Guaranteed Yield. No later than thirty (30) days after the Final Payment Date, Borrower shall calculate the Guaranteed Yield and the Payment Amount and pay to Lender the

amount by which the Guaranteed Yield exceeds the Payment Amount, if any. Borrower shall deliver to Lender Borrower's calculations, and Lender shall have the right to challenge any such calculations.

Section XIV.4 Subordination. The obligation of Parent to make any cash payment in connection with a conversion of the Obligations pursuant to Section 2.4 and Article XIV (the "Payment Obligations") shall be fully subordinated to Parent's Senior Debt in accordance with the provisions of this Section 14.4. Parent may not make any payments on account of the Payment Obligations if there shall have occurred and be continuing a default in the payment of principal of (or premium, if any) or interest on any Specified Senior Debt, the payment of commitment or facility fees, letter of credit fees or agency fees under any Specified Senior Debt, or payments with respect to letter of credit reimbursement arrangements with one or more lenders under the credit or other agreement evidencing any Specified Senior Debt when due (a "Senior Payment Default"). Following the occurrence of an event of default (other than a Senior Payment Default) under any Specified Senior Debt permitting the holders of such Specified Senior Debt (or a trustee or agent on behalf thereof) to accelerate the maturity thereof, or the occurrence of an event which with the passage of time or the giving of notice, or both, could become such an event of default (a "Senior Nonmonetary Default") and, in each case, following the giving of notice thereof to Parent in accordance with the terms governing the relevant Specified Senior Debt (a "Blockage Notice"), Parent may not make any payments on account of the Payment Obligations for a period (a "Blockage Period") commencing on the date Parent receives the Blockage Notice, and ending on the earliest of (i) 179 days after such date, (ii) the date, if any, on which such Senior Nonmonetary Default is waived or otherwise cured and (iii) the date, if any, on which such Blockage Period shall have been terminated by written notice to Parent from the holders of the relevant Specified Senior Debt (or a trustee or agent on behalf thereof).

Upon any payment or distribution of assets of any kind or character, whether in cash, property or securities, to creditors upon any dissolution or winding up or total or partial liquidation or reorganization of Parent, whether voluntary or involuntary, or upon bankruptcy, insolvency, receivership or other proceedings, then and in such event, all principal, premium (if any) and interest and all other amounts due or to become due upon all Parent's Senior Debt shall first be paid in full before the holders of the Payment Obligations shall be entitled to receive or retain any assets so paid or distributed in respect of the Payment Obligations (for principal, premium (if any), interest or otherwise); and, upon any such dissolution or winding up or liquidation or reorganization, any payment or distribution of assets of any kind or character, whether in cash, property or securities, that the holders of the Payment Obligations would be entitled to, except as otherwise provided herein, shall be paid by Parent or by any receiver, trustee in bankruptcy, liquidating trustee, agent or other person making such payment or distributions, or by the holders of the Payment Obligations if received by them, directly and ratably to the holders of Parent's Senior Debt, to the extent necessary to pay in full all Parent's Senior Debt, after giving effect to any concurrent payment or distribution to or for the holders of Parent's Senior Debt, before any payment or distribution is made to the holders of the Payment Obligations.

Each holder of Payment Obligations hereby irrevocably authorizes and empowers (without imposing any obligation on) the holders of Parent's Senior Debt (or any trustee or agent on behalf thereof), under the circumstances set forth in the immediately preceding paragraph, to demand, sue for, collect and receive every such payment or distribution described therein and give acquittance therefor, to file claims and proofs of claims in any statutory or nonstatutory proceeding, to vote such Parent's Senior Debt holder's ratable share of the full amount of the Payment Obligations in its sole discretion in connection with any resolution, arrangement, plan of reorganization, compromise,

settlement or extension and to take all such other action (including, without limitation, the right to participate in any composition of creditors and the right to vote such Parent's Senior Debt holders' ratable share of the Payment Obligations at creditors' meetings for the election of trustees, acceptances of plans and otherwise), in the name of the holder of the Payment Obligations, as such Parent's Senior Debt holder or its representative may deem necessary or desirable for the enforcement of these subordination provisions.

If any payment or distribution of assets of any kind or character, whether in cash, property or securities, shall be collected or received by any holder of the Payment Obligations and such holder shall not be permitted under the terms of this instrument to receive or retain such payment or distribution, such holder shall forthwith turn over the same to Parent's Senior Debt holders for their ratable benefit in the form received (except for the endorsement or the assignment of such holder when necessary) and, until so turned over, the same shall be held in trust by such holder as the property and for the ratable benefit of the Parent's Senior Debt holders.

Nothing contained in this Section 14.4, shall affect any security interest which Lender may have in any subsidiary of Parent.

Section XIV.5 Adjustment of Parent Common Stock and Stock Price.

(a) In case Parent shall (i) pay a dividend or make a distribution solely in shares of Parent Common Stock, (ii) subdivide its outstanding shares of Parent Common Stock into a greater number of shares of Parent Common Stock or (iii) combine its outstanding shares of Parent Common Stock into a smaller number of shares of Parent Common Stock, then concurrently with the effectiveness of each such event, the Stock Price in effect immediately prior thereto shall be adjusted by multiplying the Stock Price in effect immediately prior to such adjustment by a fraction of which the numerator shall be the number of shares of Parent Common Stock outstanding immediately prior to such adjustment and the denominator shall be the number of shares of Parent Common Stock outstanding immediately following such adjustment. Such adjustment to the Stock Price shall be made each time any such action described in this Section 14.5(a) shall occur.

(b) In case Parent issues rights or warrants to all holders of Parent Common Stock entitling them to subscribe for or purchase shares of Parent Common Stock at a price per share less than Market Value the Business Day immediately prior to the record date therefor, or in case Parent shall issue to all holders of Parent Common Stock other securities convertible into or exchangeable for Parent Common Stock for a consideration per share of Parent Common Stock deliverable upon conversion or exchange thereof less than the Market Value on the Business Day immediately prior to the record date therefor, the Stock Price in effect immediately prior thereto shall be adjusted as provided below so that the Stock Price therefor shall be equal to the price determined by multiplying (A) the Stock Price in effect immediately prior to such issuance by (B) a fraction of which the denominator shall be the sum of (1) the number of shares of Parent Common Stock outstanding on the date of issuance of the convertible or exchangeable securities, rights or warrants and (2) the number of additional shares of Parent Common Stock offered for subscription or purchase, or issuable upon such conversion or exchange, and of which the numerator shall be the sum of (1) the number of shares of Parent Common Stock outstanding on the date of issuance of such convertible or exchangeable securities, rights or warrants and (2) the number of additional shares of Parent Common Stock which the aggregate offering price of the number of shares of Parent Common Stock so offered would purchase at the Market Value on the Business Day immediately

prior to the record date therefor. Such adjustment shall be made whenever such convertible or exchangeable securities, rights or warrants are issued, and shall become effective immediately after the record date for the determination of stockholders entitled to receive such securities. However, upon the expiration of any right or warrant to purchase Parent Common Stock, the issuance of which resulted in an adjustment in the Stock Price pursuant to this Section 14.5(b), if any such right or warrant shall expire and not have been exercised, the Stock Price shall be recomputed immediately upon such expiration and effective immediately upon such expiration shall be increased to the price it would have been (but reflecting any other adjustments to the Stock Price made pursuant to the provisions of this Section 14.5(b) after the issuance of such rights or warrants) had the adjustment of the Stock Price made upon the issuance of such rights or warrants been made on the basis of offering for subscription or purchase only that number of shares of Parent Common Stock actually purchased upon the exercise of any rights or warrants. No further adjustment to the Stock Price shall be made upon exercise of any right, warrant, convertible security or exchangeable security if any adjustment shall have been made upon issuance of such security.

Article XV
MISCELLANEOUS

Section XV.1 Notices. All notices and communications under this Agreement shall be in writing and shall be (i) delivered in person, (ii) sent by telecopy or telegraph, or (iii) mailed, postage prepaid, either by registered or certified mail, return receipt requested, or (iv) delivered by nationally recognized overnight express carrier, addressed in each case as follows:

If to Borrower:
Stratus Ventures I Borrower L.L.C.
98 San Jacinto Blvd., Suite 2200
Austin, Texas 78701
Attn: William H. Armstrong, III
Telecopy: (512) 478-6340

with a copy to:
John G. Amato
Freeport-McMoRan Inc.
1615 Poydras
New Orleans, Louisiana 70112
Telecopy: (504) 582-3513

If to Lender:
Oly Lender Stratus, L.P.
c/o Olympus Real Estate Corporation
200 Crescent Court, Suite 1650
Dallas, Texas 75201
Attn: Hal R. Hall
Telecopy Number: (214) 740-7340

with a copy to:
Weil, Gotshal & Manges LLP
100 Crescent Court, Suite 1300
Dallas, Texas 75201-6950
Attn: Robert C. Feldman
Telecopy Number: (214) 746-7777

or to such other address or telecopy number, as to any of the parties hereto, as such party shall designate in a written notice to the other parties hereto. All notices sent pursuant to the terms of this Section 15.1 shall be deemed received (i) if sent by telecopy or telegraph, on the day sent if a Business Day, or if such day is not a Business Day, then on the next Business Day, (ii) if sent by overnight, express carrier, on the next Business Day immediately following the day sent, or (iii) if sent by registered or certified mail, on the third Business Day following the day sent.

Section XV.2 Survival of Indemnity. The obligations

of Borrower to indemnify Lender with respect to the expenses, damages, losses, costs and liabilities described in Section 13.2 shall survive the repayment of all amounts due under the Loan Documents, the cancellation of the Note and the release and/or cancellation of any and all of the Loan Documents, or the foreclosure of any Liens on the Collateral.

Section XV.3 Further Assurances. From time to time, Borrower shall execute and deliver to Lender such additional documents as Lender may require to carry out the purposes of the Loan Documents and to protect Lender's rights thereunder.

Section XV.4 Severability. In the event that any provision of this Loan Agreement is deemed to be invalid by reason of the operation of any law, this Loan Agreement shall be construed as not containing such provision and the invalidity of such provision shall not affect the validity of any other provisions hereof, and any and all other provisions hereof which otherwise are lawful and valid shall remain in full force and effect.

Section XV.5 Waiver. No delay on the part of Lender in exercising any right, power or privilege hereunder shall operate as a waiver thereof, and no single or partial exercise of any right, power or privilege hereunder shall preclude other or further exercise thereof, or be deemed to establish a custom or course of dealing or performance among the parties hereto, or preclude the exercise of any other right, power or privilege. Any failure of Lender to insist upon strict compliance with any of the terms or conditions of this Loan Agreement or any of the other Loan Documents shall not be deemed a waiver of the same or any other term or condition of this Loan Agreement or the other Loan Documents, and Lender may at any time thereafter insist upon compliance with any and all such terms and conditions. No delay or omission in the exercise of any right or remedy of Lender as a result of a default by Borrower under this Loan Agreement or any of the other Loan Documents shall be deemed a waiver of any such right or remedy as a result of the same default or subsequent defaults, nor shall any single or partial exercise thereof preclude any other further exercise thereof or the exercise of any other right or be deemed to establish a custom or course of dealing or performance among the parties hereto, or preclude the exercise of any other right, power or privilege. Any waiver of rights and remedies of Lender or duties and obligations of Borrower under this Loan Agreement or any of the other Loan Documents shall be effective only if made in writing and duly executed and delivered by Lender. No notice or demand given in any case shall constitute a waiver of the right to take other action in the same, similar or other instances without such notice or demand.

Section XV.6 Entire Agreement; Modification. This Loan Agreement and the other Loan Documents constitute the entire agreement of the parties with respect to the subject matter hereof and supersedes all prior agreements with respect to such subject matter, written or oral. No modification or waiver of any provision of any of the Loan Documents, or consent to any departure by Borrower therefrom, shall be effective unless the same shall be in writing, and then such waiver or consent shall be effective only in the specific instance and for the purpose for which given. No notice to or demand on Borrower in any case shall entitle Borrower to any other or further notice or demand in the same, similar or other circumstances.

Section XV.7 Captions. The headings in this Loan Agreement are for purposes of reference only and shall not limit or otherwise affect the meaning hereof.

Section XV.8 Counterparts. This Loan Agreement may be executed in any number of counterparts, each of which shall be an original, but all of which together shall constitute one instrument.

Section XV.9 Successors and Assigns. This Loan Agreement shall be binding upon and inure to the benefit of and

be enforceable by the respective successors and assigns of the parties hereto.

Section XV.10 Remedies Cumulative. All rights and remedies of Lender pursuant to this Loan Agreement, any other Loan Documents or otherwise, shall be cumulative and non-exclusive, and may be exercised singularly or concurrently. Lender shall not be required to prosecute collection, enforcement or other remedies against Borrower before proceeding against Borrower, or to enforce or resort to any security, liens, collateral or other rights of Borrower before proceeding against any security, liens, collateral or other rights of any other Obligor. One or more successive actions may be brought against Borrower, either in the same action or in separate actions, as often as Lender deems advisable, until all of the Obligations are paid and performed in full.

Section XV.11 Time is of the Essence. Time is of the essence of this Loan Agreement and the other Loan Documents.

Section XV.12 Survival of Representations and Warranties. The representations and warranties contained in this Loan Agreement and the other Loan Documents shall survive termination, cancellation, expiration and completion of this Loan Agreement and shall survive any transfer or assignment hereof.

Section XV.13 Arbitration.

(a) Borrower and Lender specifically agree that any controversy, claim, or dispute arising out of this Agreement or any of the other Loan Documents, or any alleged breach thereof, shall be resolved exclusively by arbitration. Any arbitration shall take place in Houston, Texas and be administered by the Houston, Texas office of the American Arbitration Association (the "AAA") in accordance with its Commercial Arbitration Rules in effect at the time the arbitration is initiated (collectively, the "Rules").

(b) As soon as a demand for arbitration shall be made by either party, the AAA shall proceed to provide a list of arbitrators from the Commercial Panel from which the parties shall select a panel of three neutral arbitrators in accordance with the Rules and normal procedures of the Houston, Texas office of the AAA. If necessary, the AAA shall select some or all of the arbitrators when it is authorized to do so under the Rules.

(c) The arbitration panel shall render a full, complete, conclusive, and binding resolution of the dispute. The arbitration award shall assess all reasonable attorneys' fees and costs, including the costs of the arbitration and the arbitrators' compensation, against the losing party. Judgment on the award may be entered in any court having jurisdiction thereof.

Section XV.14 APPLICABLE LAW. THE LOAN DOCUMENTS SHALL BE CONSTRUED IN ACCORDANCE WITH AND GOVERNED BY THE LAWS AND DECISIONS OF THE STATE OF TEXAS.

Section XV.15 VENUE. BORROWER HEREBY AGREES THAT ANY STATE OR FEDERAL COURT LOCATED IN HARRIS COUNTY, TEXAS SHALL HAVE JURISDICTION TO HEAR AND DETERMINE ANY CLAIMS OR DISPUTES BETWEEN LENDER AND BORROWER PERTAINING DIRECTLY OR INDIRECTLY TO ANY OF THE LOAN DOCUMENTS OR TO ANY MATTER ARISING THEREFROM. BORROWER HEREBY EXPRESSLY SUBMITS AND CONSENTS IN ADVANCE TO SUCH JURISDICTION IN ANY ACTION OR PROCEEDING COMMENCED BY LENDER IN ANY OF SUCH COURTS, AND HEREBY WAIVES PERSONAL SERVICE OF THE SUMMONS AND COMPLAINT, OR OTHER PROCESS OR PAPERS ISSUED THEREIN, AND AGREES THAT SERVICE OF SUCH SUMMONS AND COMPLAINT OR OTHER PROCESS OR PAPERS MAY BE MADE BY REGISTERED OR CERTIFIED MAIL ADDRESSED TO BORROWER AT THE ADDRESS TO WHICH NOTICES ARE TO BE SENT PURSUANT TO SECTION 15.1. BORROWER WAIVES ANY CLAIM THAT A STATE OR FEDERAL COURT LOCATED IN HARRIS COUNTY, TEXAS IS AN INCONVENIENT FORUM OR AN IMPROPER FORUM BASED ON LACK OF VENUE. SHOULD BORROWER, AFTER BEING SO SERVED, FAIL TO APPEAR OR ANSWER TO ANY SUMMONS, COMPLAINT, OR PROCESS OR PAPERS SO SERVED WITHIN

THE TIME PRESCRIBED BY LAW AFTER THE MAILING THEREOF, BORROWER SHALL BE DEEMED IN DEFAULT AND AN ORDER AND/OR JUDGMENT MAY BE ENTERED BY LENDER AGAINST BORROWER AS DEMANDED OR PRAYED FOR IN SUCH SUMMONS, COMPLAINT, PROCESS OR PAPERS. THE EXCLUSIVE CHOICE OF FORUM FOR BORROWER SET FORTH IN THIS SECTION 15.15 SHALL NOT BE DEEMED TO PRECLUDE THE ENFORCEMENT BY LENDER OF ANY JUDGMENT OBTAINED IN SUCH FORUM OR THE TAKING BY LENDER OF ANY ACTION TO ENFORCE THE SAME IN ANY OTHER APPROPRIATE JURISDICTION.

Section XV.16 WAIVER OF RIGHT TO JURY TRIAL. LENDER AND BORROWER ACKNOWLEDGE AND AGREE THAT ANY CONTROVERSY WHICH MAY ARISE UNDER ANY OF THE LOAN DOCUMENTS OR WITH RESPECT TO THE TRANSACTIONS CONTEMPLATED THEREBY WOULD BE BASED UPON DIFFICULT AND COMPLEX ISSUES, AND THEREFORE, THE PARTIES AGREE THAT ANY LAWSUIT ARISING OUT OF ANY SUCH CONTROVERSY WILL BE TRIED IN A COURT OF COMPETENT JURISDICTION BY A JUDGE SITTING WITHOUT A JURY.

Section XV.17 No Obligation to Renew. Borrower acknowledges and agrees that the Loan is intended to be a six (6) year loan only and that Lender has no obligation whatsoever, express or implied, to extend the term of the Loan beyond the Maturity Date. Borrower further agrees that in no event shall any such obligation ever arise except in the event that Lender, in Lender's sole discretion, shall elect to execute and deliver to Borrower a written extension agreement (if any), which shall be on such terms and conditions as may be required by Lender, in Lender's sole discretion.

Section XV.18 STATUTE OF FRAUDS. THIS LOAN AGREEMENT AND THE OTHER WRITTEN LOAN DOCUMENTS EXECUTED BY ANY OF THE PARTIES PRIOR TO OR SUBSTANTIALLY CONTEMPORANEOUSLY HEREWITH TOGETHER CONSTITUTE A WRITTEN LOAN AGREEMENT WHICH REPRESENTS THAT FINAL AGREEMENT BETWEEN THE PARTIES AND MAY NOT BE CONTRADICTED BY EVIDENCE OF PRIOR, CONTEMPORANEOUS OR SUBSEQUENT AGREEMENTS OF THE PARTIES. THERE ARE NO UNWRITTEN ORAL AGREEMENTS BETWEEN THE PARTIES.

Section XV.19 Debt Incurrence Limitation of Parent. Parent covenants and agrees that until all of the Obligations are paid and performed in full, Parent will not incur any Debt if, immediately following the incurrence of such Debt and the acquisition of any assets in connection therewith, the Coverage Ratio would be less than 1.35 to 1.0.

This Loan Agreement has been executed and delivered by each of the parties hereto by a duly authorized officer of each such party on the date first set forth above.

BORROWER:

STRATUS VENTURES I BORROWER L.L.C.,
a Delaware limited liability company

By: Stratus Properties Inc.,
a Delaware corporation,
its sole member

By:/s/William H. Armstrong III

William H. Armstrong, III
President

PARENT:

STRATUS PROPERTIES INC.,
a Delaware corporation

By: /s/ William H. Armstrong III

William H. Armstrong, III
President

LENDER:

OLY LENDER STRATUS, L.P.,
a Texas limited partnership

By: Oly Fund II GP Investments, L.P.,
a Texas limited partnership,
its general partner

By: Oly Real Estate Partners II, L.P.,
a Texas limited partnership,
its general partner

By: Oly REP II, L.P.,
a Texas limited partnership,
its general partner

By: Oly Fund II, LLC,
a Texas limited liability company,
its general partner

By:/s/ Hal R. Hall

Hal R. Hall
Vice President

EXHIBIT 1

Borrower Capital Stock

All stock of Stratus Ventures I Borrower, L.L.C. is held by Stratus Properties Inc., a Delaware corporation, its sole member.

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LOAN AGREEMENT

by and among

STRATUS VENTURES I BORROWER L.L.C.
as borrower,

OLY LENDER STRATUS, L.P.
as lender,

and

STRATUS PROPERTIES INC.
as parent

Dated as of May 22, 1998

Exhibit 99.1

MASTER AGREEMENT

This MASTER AGREEMENT (this "Agreement") is made and entered into this 22nd day of May, 1998, by and among OLY FUND II GP INVESTMENTS, L.P., a Texas limited partnership ("Olympus"), OLY LENDER STRATUS, L.P., a Texas limited partnership ("Oly Lender"), OLY/STRATUS EQUITIES, L.P., a Texas limited partnership, ("Oly Equities"), STRATUS PROPERTIES INC., a Delaware corporation ("Stratus") and STRATUS VENTURES I BORROWER L.L.C. ("Stratus Ventures").

RECITALS

WHEREAS, Stratus is in the business of land and commercial real estate development ancillary to its land development activities.

WHEREAS, Olympus desires to invest up to Fifty Million and No/100 Dollars ($50,000,000.00) through the formation of a series of entities with Stratus or affiliates of Stratus to (i) develop certain properties currently owned by Stratus (collectively, "Existing Properties") and individually, an "Existing Property") and (ii) acquire and develop other properties throughout the United States (collectively, "New Properties") and individually, a "New Property").

WHEREAS, Olympus as general partner of Oly Equities desires to invest Ten Million and No/100 Dollars ($10,000,000.00) in Stratus in the form of a mandatorily redeemable preferred stock pursuant to a "Securities Purchase Agreement" (herein so called) to be entered into between Oly Equities and Stratus contemporaneously herewith, which amount may be used by Stratus for any corporate purposes it deems appropriate.

WHEREAS, Olympus as general partner of Oly Lender desires to provide up to Ten Million and No/100 ($10,000,000.00) in convertible debt financing to Stratus Ventures pursuant to a "Loan Agreement" (herein so called) to be entered into between Stratus Ventures and Oly Lender contemporaneously herewith, which amount may be used by Stratus Ventures to invest with Olympus in one or more entities that will be formed to acquire and develop New Properties.

WHEREAS, Stratus desires to grant Olympus a first right of refusal to invest in certain development opportunities.

NOW THEREFORE, for and in consideration of the premises and mutual covenants and agreements contained in this Agreement, the parties hereby agree as follows:

ARTICLE I
PROPERTY DEVELOPMENT

I.1 Equity Commitment. Olympus hereby agrees, for a period of three (3) years from the date hereof, to co-invest with Stratus in ventures in an amount up to Fifty Million and No/100 Dollars ($50,000,000.00) of equity capital (in the form of equity and mezzanine debt, which shall be subordinate to third party secured financing) (the "Equity Funds") for the development of (i) certain Existing Properties and (ii) certain New Properties on the basis described in this Agreement.

(a) Existing Properties. In accordance with and subject to the Proposal Process set forth in Section 2.1, for the development of an Existing Property, Olympus and Stratus agree that the typical venture will provide (i) a property contribution by Stratus at a contribution value to be designated by Stratus and agreed to by Olympus, (ii) a contribution of cash Equity Funds by Olympus and

(iii) unless otherwise mutually agreed, Stratus and Olympus shall receive identical instruments in exchange for such contributions, whether in the form of equity or mezzanine debt. If the value of the Existing Property exceeds Stratus' equity contribution amount to the venture, then Stratus shall receive cash from the venture in the amount by which the Existing Property contribution value exceeds Stratus' equity contribution.

(b) New Properties. In accordance with and subject to the Proposal Process set forth in Section 2.1, for the acquisition and development of a New Property, Olympus and Stratus agree that the typical venture will provide (i) a capital contribution by Stratus of cash, common stock or other securities, like-kind exchanges, guarantees, or some combination thereof recorded at a value mutually agreed by Stratus and Olympus, (ii) a capital contribution by Olympus in cash and (iii) unless otherwise mutually agreed, Stratus and Olympus shall receive identical instruments in exchange for such contributions, whether in the form of equity or mezzanine debt.

I.2 Third Party Investors/Developers. In the event Olympus and Stratus agree to include a third party investor and/or developer in any venture, Olympus and Stratus shall mutually agree upon a reduction in the participation interest of Olympus and Stratus in order to accommodate such third party; provided, however, the participation interest offered to Olympus shall at all times be equal to or greater than the participation interest of each of the other parties.

ARTICLE II
FIRST RIGHT OF REFUSAL

II.1 Offer. Stratus shall provide Olympus a written offer (an "Offer") to invest in any real estate acquisition or development opportunity (the "Development Opportunity") that becomes available to Stratus and Stratus desires to pursue; provided, however, Stratus shall not be required to provide Olympus with an Offer of any Development Opportunity for which Equity Funds will be provided entirely by Stratus and Olympus shall not have a right to participate therein. The economic terms shall be established by the Proposal Process (herein so called) of this Section 2.1 as follows:

(a) The Initial Proposal. Each Offer shall include a proposal (the "Initial Proposal") which shall contain the information described on Schedule 2.1(a) attached hereto, to the extent reasonably available. Subject to Section 1.2, Stratus shall at all times in the Proposal Process offer to Olympus at least a 50% equity/mezzanine participation. Within fifteen (15) days of receiving the Offer and the Initial Proposal, Olympus shall notify Stratus in writing whether or not the Initial Proposal is acceptable to Olympus. If Olympus fails to notify Stratus in writing within such fifteen (15) days of receipt of any Offer and Initial Proposal, Olympus shall be deemed to have declined such Offer and Initial Proposal and shall have no further right to participate in such Development Opportunity.

(b) The Alternative Proposal. If the Initial Proposal is not acceptable to Olympus, Olympus may reject the Initial Proposal or, alternatively, within such 15-day period provided in Section 2.1(a), provide written notice to Stratus that the Initial Proposal is not acceptable, together with a bona fide alternative written proposal (the "Alternative Proposal") which sets forth economic terms of the Development Opportunity that would be acceptable to Olympus. Within fifteen (15) days of receipt of the Alternative Proposal, Stratus shall provide Olympus written notice whether or not the Alternative Proposal is acceptable to Stratus. If Stratus fails to provide Olympus such written notice, Stratus shall be deemed to have declined the Alternative Proposal.

(c) The Second Alternative Proposal. If Stratus does not accept the Alternative Proposal, Stratus shall have the right to proceed with the Development Opportunity if and only if (i) (A) the Development Opportunity is capitalized by a third party on materially more favorable terms and conditions to Stratus than that proposed by Olympus' Alternative Proposal and (B) the transaction (the "Third Party Transaction") contemplated by the Development Opportunity with the third party closes on or before six (6) months after Olympus receives written notice from Stratus that Stratus does not accept the Alternative Proposal or Stratus is deemed to have declined the Alternative Proposal, or (ii) Stratus elects to provide the Equity Funds required for the Development Opportunity without third party equity financing. A Third Party Transaction will be conclusively presumed to be on materially more favorable terms and conditions to Stratus than Olympus' Alternative Proposal if Stratus elects to present to Olympus the terms and conditions of the proposed Third Party Transaction and Olympus does not within fifteen (15) days agree to enter into a transaction regarding the Development Opportunity upon the same terms and conditions as the third party proposed; provided, however, Stratus shall not be required to present any such third party proposal to Olympus. If, within such 6-month period, Stratus has not closed the Third Party Transaction and has not closed on the Development Opportunity for its own account, Stratus and Olympus shall reconsider the Initial Proposal and the Alternative Proposal. On or before twenty (20) days after such 6-month period, Olympus may, but shall not be obligated to, provide Stratus with a second alternative proposal (the "Second Alternative Proposal"), which sets forth economic terms of the Development Opportunity that would be acceptable to Olympus. Within twenty (20) days of receipt of the Second Alternative Proposal, Stratus shall provide Olympus written notice whether or not the Second Alternative Proposal is acceptable to Stratus. If Stratus fails to provide Olympus such written notice, Stratus shall be deemed to have declined the Second Alternative Proposal. If Stratus provides Olympus such written notice that Stratus does not accept the Second Alternative Proposal or Stratus is deemed to have declined the Second Alternative Proposal, Stratus shall have the right to proceed with the Development Opportunity if and only if (y) the Development Opportunity is capitalized by a third party on at least as favorable terms and conditions to Stratus as the Second Alternative Proposal or (z) Stratus elects to provide the Equity Funds required for the Development Opportunity without third party equity financing.

Notwithstanding anything to the contrary contained in this Agreement, the obligation of each party to proceed under the terms of any "Proposal" (herein so defined to mean either the Initial Proposal, the Alternative Proposal or the Second Alternative Proposal) shall be contingent upon the right of such party, for a period of thirty (30) days after receipt of the written acceptance by either Olympus or Stratus of any Proposal, to perform such due diligence and title and survey review as such party deems necessary and which is consistent with ordinary and customary real estate investment and/or underwriting criteria. Each party shall use its best efforts and act in good faith to perform all such due diligence.

II.2 Termination of First Right of Refusal. All of Stratus' and Olympus' obiligations under this Article 2 including, without limitation, the obligation of Stratus to provide Olympus any Offer shall terminate upon the earliest of (i) the investment or commitment by Olympus of the full amount of the Equity Funds for Development Opportunities, (ii) three (3) years after the date hereof, (iii) Olympus' failure to participate in or agree to participate in at least one (1) Development Opportunity presented by Stratus to Olympus pursuant to the terms of this Agreement within any consecutive 12-month period or (iv) the mutual agreement of the parties.

II.3 Olympus' Origination. Olympus will endeavor to, but shall not be obligated to, source and present new opportunities to Stratus for acquisition and development consistent with Stratus' existing business objectives. The parties acknowledge and agree that each of Olympus and Stratus and their respective affiliates shall be free to pursue and/or invest in and/or operate other business opportunities that may or may not compete with activities of the other party or its affiliates, subject to the terms and conditions set forth in this Agreement, including, specifically, without limitation, Stratus' obligation to offer Olympus a first right of refusal as set forth in this Article 2.

ARTICLE III
PARTNERSHIP STRUCTURE

III.1 Formation of Partnership. On or before twenty (20) days after either Olympus or Stratus agrees in writing to any Proposal delivered to the other pursuant to the terms of Section 2.1, Olympus and Stratus agree to cause their respective entities as contemplated by Section 3.2 to execute a partnership (or, if appropriate to the situation and mutually agreeable to the parties, other limited liability vehicle) agreement which sets forth the terms and conditions of the agreement between the Olympus and Stratus partners with regard to the Development Opportunity described in such Proposal.

III.2 Entity Agreement. Attached as Exhibit A is the form of the partnership agreement which shall be used by Stratus and Olympus to negotiate an agreement regarding a Proposal. The economic terms of equity participation, promoted interests, if any, and distributions and other terms of the partnership agreement and related documents shall reflect the terms agreed to by both parties pursuant to the Proposal Process. At the closing of the formation of any partnership, the partnership shall reimburse each party's all expenses incurred in connection with the Development Opportunity; provided, however, that the legal expenses incurred in connection with each party's negotiation of the partnership agreement shall be the responsibility of such party and not be reimbursed by the partnership. In addition, Stratus shall have the right of reimbursement of Stratus' expenses incurred in pursuing other Development Opportunities for the purposes hereof and which were agreed to by Olympus, such agreement being evidenced upon delivery by Olympus to Stratus of an executive summary of such Development Opportunity prepared and executed by Olympus, as provided in the Loan Agreement. The Olympus partner shall be a special purpose entity that will be formed by Olympus or its affiliates. The Stratus partner shall be a special purpose entity that will be formed by Stratus or its affiliates; provided that with respect to Development Opportunities relating to New Properties in which Olympus provides proceeds under the Loan Agreement between Olympus and Stratus Ventures, then the Stratus partner shall be Stratus Ventures or a wholly-owned subsidiary of Stratus Ventures. Unless otherwise agreed to in the Proposal Process, each partner's interest (i.e., Olympus, Stratus and any third party) shall be based on its respective aggregate cash capital contribution or deemed capital contribution as a percentage of the total cash capital contributions and deemed capital contributions made by all the partners. Unless otherwise agreed to in the Proposal Process, after payment of any non-partner obligations, all net cash flow from a project shall be distributed pro-rata to each partner in the ratio of its respective ownership percentages.

III.3 Management Agreement. Unless otherwise agreed, Stratus or its affiliate shall serve as property manager to the partnership on market terms and conditions as mutually agreed by Olympus and Stratus. Attached as Exhibit B is the form of property management agreement to be used by Stratus and Olympus to negotiate an agreement in connection with a Proposal. The economic terms of the compensation to the property manager

shall be presented in the Proposal and be mutually agreeable to the parties based upon the circumstances of the services to be rendered.

ARTICLE IV
MANDATORILY REDEEMABLE PREFERRED STOCK AND CONVERTIBLE LOAN

IV.1 Mandatorily Redeemable Preferred Stock . Simultaneously with the execution of this Agreement, Oly Equities and Stratus will execute and deliver the Securities Purchase Agreement in the form of Exhibit C pursuant to which Oly Equities will purchase from Stratus 1,712,328 shares of a mandatorily redeemable preferred stock for the aggregate amount of Ten Million and No/100 Dollars ($10,000,000.00).

IV.2 Loan Agreement. Simultaneously with the execution of this Agreement, Oly Lender and Stratus Ventures will execute the Loan Agreement in the form of Exhibit D pursuant to which Oly Lender agrees to lend to Stratus Ventures up to Ten Million and No/100 Dollars ($10,000,000.00) to be used in Development Opportunities relating to New Properties. Stratus Ventures must draw at least Seven Million Five Hundred Thousand and No/100 Dollars ($7,500,000.00) under the Loan Agreement prior to Stratus contributing other forms of equity to the ventures, unless otherwise approved by Oly Lender; provided that nothing herein shall prohibit Stratus from funding any Development Opportunity.

IV.3 Investor Rights Agreement. Simultaneously with execution of this Agreement, Oly Equities and Stratus will execute and deliver the Investor Rights Agreement in the form of Exhibit E.

IV.4 Conversion of Loan. Subject to the conversion limitations set forth in Article XIV of the Loan Agreement, Stratus will deliver to Oly Lender such number of shares of its common stock into which the loan is converted pursuant to the Loan Agreement at such time as Oly Lender converts the loan or portion thereof as provided in the Loan Agreement.

ARTICLE V
MISCELLANEOUS

V.1 Entire Agreement. This Agreement, including all exhibits and schedules attached hereto and all documents referenced herein or therein, constitutes the entire agreement among the parties with respect to the subject matter hereof and supersedes any prior agreement or understanding among them with respect to such subject matter.

V.2 Severability. If any provision of this Agreement, or the application of such provision to any person or circumstance, shall be held invalid under the applicable law of any jurisdiction, the remainder of this Agreement or the application of such provision to other persons or circumstances or in other jurisdictions shall not be affected thereby. Also, if any provision of this Agreement is invalid or unenforceable under any applicable law, then such provision shall be deemed inoperative to the extent that it may conflict therewith and shall be deemed modified to conform with such law. Any provision hereof that may prove invalid or unenforceable under any law shall not affect the validity or enforceability of any other provision hereof.

V.3 Notices. All notices, requests, demands and other communications hereunder shall be in writing and shall be deemed to have been duly given if sent by overnight courier, hand delivered, mailed (first class registered mail or certified mail, postage prepaid) or sent by telecopy at the addresses or facsimile numbers listed below or to such other address as any party shall have last designated by notice to the other and all other parties hereto in accordance with this Section 5.3 . Notices sent by hand delivery shall be deemed to have been given when received; notices mailed in accordance with the foregoing

shall be deemed to have been given three days following the date so mailed; notices sent by telecopy shall be deemed to have been given when electronically confirmed; and notices sent by overnight courier shall be deemed to have been given on the next business day
following the date so sent.

If to Olympus:	Oly Fund II GP Investments, L.P. 200 Crescent Court, Suite 1650 Dallas, Texas 75201 Attention: Hal R. Hall Telecopy: (214) 740-7355
with a required copy to:	Robert C. Feldman, Esq. Weil, Gotshal & Manges LLP 100 Crescent Court, Suite 1300 Dallas, Texas 75201 Telecopy: (214) 746-7777
If to Oly Lender:	Oly Lender Stratus, L.P. 200 Crescent Court, Suite 1650 Dallas, Texas 75201 Attention: Hal R. Hall Telecopy: (214) 740-7355
with a required copy to:	Robert C. Feldman, Esq. Weil, Gotshal & Manges LLP 100 Crescent Court, Suite 1300 Dallas, Texas 75201 Telecopy: (214) 746-7777
If to Oly Equities:	Oly/Stratus Equities, L.P. 200 Crescent Court, Suite 1650 Dallas, Texas 75201 Attention: Hal R. Hall Telecopy: (214) 740-7355
with a required copy to:	Robert C. Feldman, Esq. Weil, Gotshal & Manges LLP 100 Crescent Court, Suite 1300 Dallas, Texas 75201 Telecopy: (214) 746-7777
If to Stratus:	Stratus Properties Inc. 98 San Jacinto Blvd., Suite 2200 Austin, Texas 78701 Attention: William H. Armstrong, III Telecopy: (512) 478-6340
with a required copy to:	John G. Amato 1615 Poydras Street New Orleans, Louisiana 70112 Telecopy: (504) 585-3513
If to Stratus Ventures:	Stratus Ventures I Borrower L.L.C. 98 San Jacinto Blvd., Suite 2200 Austin, Texas 78701 Attention: William H. Armstrong, III Telecopy: (512) 478-6340
with a required copy to:	John G. Amato 1615 Poydras Street New Orleans, Louisiana 70112 Telecopy: (504) 585-3513

V.4 Governing Laws. This Agreement shall be governed by and construed and enforced in accordance with the laws of the State of Texas (without regard to principles of conflicts of laws).

V.5 Successors and Assigns. Except as otherwise specifically provided, this Agreement shall be binding upon and inure to the benefit of Olympus, Oly Lender, Oly Equities, Stratus and Stratus Ventures and their respective successors and permitted assigns. Each of Olympus, Oly Lender and Oly Equities

shall have the right to assign its rights and obligations to an affiliate controlled by or under common control with Olympus Real Estate Fund II, L.P, which is at all times in a position to fund the financial obligations hereunder.

V.6 Counterparts. This Agreement may be executed in one or more counterparts, all of which shall constitute one and the same instrument.

V.7 Headings. The section and article headings in this Agreement are for convenience of reference only and shall not be deemed to alter or affect the meaning or interpretation of any provision hereof.

V.8 Other Terms. All references to "Articles" and "Sections" contained in this Agreement are, unless specifically indicated otherwise, references to articles, sections, subsections and paragraphs of this Agreement. Whenever in this Agreement the singular number is used, the same shall include the plural where appropriate (and vice versa), and words of any gender shall include each other gender where appropriate. As used in this Agreement, the following words or phrases shall have the meanings indicated: (i) "or" shall mean "and/or"; (ii) "day" shall mean a calendar day; (iii) "including" or "include" shall mean "including without limitation"; and (iv) "law" or "laws" shall mean statutes, regulations, rules, judicial orders and other legal pronouncements having the effect of law. Whenever any provision of this Agreement requires or permits a party to take or omit to take any action, or make or omit to make any decision, unless the context clearly requires otherwise, such provision shall be interpreted to authorize an action taken or omitted, or a decision made or omitted, by the party acting alone and in good faith.

V.9 No Recordation. Neither this Agreement nor any document referring to this Agreement shall be recorded in any county, public or official records other than as exhibits to Stratus' reports filed with the Securities and Exchange Commission or otherwise as required pursuant to any legal obligations of any of the parties or their affiliates. If requested by any party, upon expiration or other termination of this Agreement or any obligations or rights hereunder, the parties will promptly execute any document reasonably necessary to evidence to third parties the termination of this Agreement or any obligations or rights hereunder.

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

OLYMPUS:

Oly Fund II GP Investments, L.P.,
a Texas limited partnership

By: Oly Real Estate Partners II, L.P.,
a Texas limited partnership,
its general partner

By: Oly REP II, L.P.,
a Texas limited partnership,
its general partner

By: Oly Fund II, LLC,
a Texas limited liability company,
its general partner

By: /s/Hal R. Hall

Hal R. Hall
Vice President

OLY LENDER:

OLY LENDER STRATUS, L.P.,
a Texas limited partnership

By: Oly Fund II GP Investments, L.P.,
a Texas limited partnership,
its general partner

By: Oly Real Estate Partners II, L.P.,
a Texas limited partnership,
its general partner

By: Oly REP II, L.P.,
a Texas limited partnership,
its general partner

By: Oly Fund II, LLC,
a Texas limited liability company,
its general partner

By: /s/ Hal R. Hall

Hal R. Hall
Vice President

OLY/STRATUS:

OLY/STRATUS EQUITIES, L.P.,
a Texas limited partnership

By: Oly Fund II GP Investments, L.P.,
a Texas limited partnership,
its general partner

By: Oly Real Estate Partners II, L.P.,
a Texas limited partnership,
its general partner

By: Oly REP II, L.P.,
a Texas limited partnership,
its general partner

By: Oly Fund II, LLC,
a Texas limited liability company,
its general partner

By: /s/Hal R. Hall

Hal R. Hall
Vice President

STRATUS:

STRATUS PROPERTIES INC.,
a Delaware corporation

By: /s/ William H. Armstrong III

William H. Armstrong, III
President

STRATUS VENTURES:

STRATUS VENTURES I BORROWER L.L.C.,
a Delaware limited liability company

By: Stratus Properties Inc.,
a Delaware corporation,
its sole member

By: /s/ William H. Armstrong III

William H. Armstrong, III
President

EXHIBIT A

FORM PARTNERSHIP AGREEMENT

[ATTACHED]

EXHIBIT B

FORM MANAGEMENT AGREEMENT

[ATTACHED]

EXHIBIT C

SECURITIES PURCHASE AGREEMENT

FILED AS SEPARATE EXHIBIT TO CURRENT REPORT ON FORM 8-K

EXHIBIT D

LOAN AGREEMENT

FILED AS SEPARATE EXHIBIT TO CURRENT REPORT ON FORM 8-K

EXHIBIT E

INVESTORS RIGHTS AGREEMENT

FILED AS SEPARATE EXHIBIT TO CURRENT REPORT ON FORM 8-K

SCHEDULE 2.1(a)

INITIAL PROPOSAL OUTLINE

The following outline shall be representative of the information that would normally be included in Initial Proposals that Stratus presents to Olympus, to the extend reasonably available. Content and format may vary from one Initial Proposal to another depending on (i) the type of property being considered (i.e., office building vs. residential subdivision), (ii) the status of the project (i.e., existing vs. proposed) and (iii) the availability of information.

1. Executive Summary
   A synopsis of the project, product, pricing, proposed program, timing, capital requirements and resulting financial projections.

2. Location Maps
   Regional, area and local maps sufficient to locate the project.

3. Property Photographs
   Aerial, elevation, interior and area photographs to illustrate the project and surrounding area.

4. Drawings
   Site plans, building elevations and floor plans shall be included when appropriate and/or available.

5. Proposed Transaction Terms
   Proposed participants, expected capital contributions, relative ownership, cash distribution priority, if any, third party debt requirements, debt guarantees, partnership governance and project management oversight and compensation shall be outlined. Changes/variances to the partnership agreement and management agreement templates shall be highlighted.

6. Plan
   A bullet point synopsis of the program envisioned to develop, sell and/or operate the project, including a summary of the project and its pricing, to the extent practical and appropriate.

7. Financial Projections
   Annual financial projections using discounted cash flow analysis to evaluate the following three (3) scenarios: best case, prudent case and pessimistic case. The financial projections shall also include revenue, operating expense, capital expenditures, annual debt service, cumulative source/use statement and individual partner returns, to the extent practical and appropriate.

8. Schedule
   A high-level bar chart (Gantt chart) summarizing the tasks to complete prior to closing along with the tasks and milestones for the project that occur subsequent to closing.

9. Due Diligence Matters & Risk Assessment
   A summary of completed and ongoing due diligence work, including any material risks identified.

10. Appendix
    Proposals may also include appropriate and pertinent supporting information such as the following: purchase agreement, market research product inventory listings, entitlement information.

11. Recovery by Stratus of "Pursuit Costs" of Prior Development Opportunities
    Proposals will identify reimbursable actual direct expenses incurred by Stratus in connection with its pursuit of prior Development Opportunities to be offered to Olympus.

12. Revisions to the Representations and Warranties of Stratus and Stratus Ventures Made in the Loan Agreement
    Proposals may also include any revisions to be made to the terms and conditions of the representations and warranties made by Stratus and Stratus Ventures in Loan Agreement.

(A Texas Limited Partnership)

LIMITED PARTNERSHIP AGREEMENT

_____

Dated as of _____, 1998

_____

TABLE OF CONTENTS

_____ LIMITED PARTNERSHIP
LIMITED PARTNERSHIP AGREEMENT

This Limited Partnership Agreement (this "Agreement") of _____,a_____(the "Part Partner") and _____, as the financial partner (the "Financial Partner") and _____,a _____ are referred to herein as the "Limited Partners"). The General Partners and the Limited Partners are herein collectively referred to as the "Partners" and individually referred to as a "Partner". The Operating Partner is additionally referred to as "FM." The Financial Partner is additionally referred to as "Olympus."

RECITALS

A. The parties hereto desire to form a limited partnership under the Act (as defined below).

B. The Partnership is being formed for the purpose of acquiring, owning, developing and reselling that certain property located in _____and known as _____ (the "Property").

C. The initial Partners hereto desire to enter into this Agreement to establish their respective rights and obligations with respect to the Partnership and to provide for the orderly management of the affairs of the Partnership.

NOW, THEREFORE, in consideration of the mutual covenants and agreements set forth in this Agreement, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Partners hereby agree as follows:

ARTICLE 1
Definitions

1.1 Definitions. As used in this Agreement, the

following terms shall have the following meanings:

"Act" shall have the meaning set forth in Section 2.1.

"Affiliate" shall mean, when used with reference to a specified Person, any other Person that directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with, the specified Person. As used in this definition of Affiliate, the term "Control" means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a Person, whether through ownership of voting securities, by contract, or otherwise.

"Business" shall mean all tangible and intangible property of the Partnership as of the date of the Buy/Sell offer and any proceeds therefrom subject to all obligations or liabilities associated therewith.

"Business Day" shall mean any day other than a Saturday, Sunday, or holiday on which national banking associations in the State of Texas are authorized or required to be closed.

"Business Plan" shall mean the business plan attached hereto as Exhibit A and incorporated herein, and as may be amended from time to time in accordance with the provisions hereof or as may attached hereto within sixty (60) days of the execution of this Agreement upon approval of the Management Committee.

"Buy-Sell" shall have the meaning set forth in Section 7.3.

"Buy/Sell Closing Date" shall have the meaning set forth in Section 7.3.

"Buy/Sell Election Period" shall have the meaning set forth in Section 7.3.

"Buy/Sell Offer" shall have the meaning set forth in Section 7.3.

"Buy/Sell Purchaser" shall have the meaning set forth in Section 7.3.

"Buy/Sell Seller" shall have the meaning set forth in Section 7.3.

"Capital Account" shall mean a separate account maintained for each Partner in accordance with the provisions of Regulation section 1.704-1(b)(2)(iv). Each Partner shall have only one Capital Account, regardless of the number of classes of units or other interests in the Partnership owned by such Partner. Initially, the Capital Account of each Partner shall have a positive balance equal to its initial Capital Contribution. Such Capital Account shall thereafter be adjusted in accordance with the following provisions:

(a) Additions. The Capital Account shall be increased by the sum of (i) except as otherwise provided in paragraph (f) below in the case of a contribution of a promissory note, the amount of cash and the fair market value (determined as of the date of contribution, without regard to section 7701(g) of the Code, including a constructive contribution resulting from a termination and reconstitution of the Partnership under section 708(b)(1)(B) of the Code) of property contributed, or deemed to have been contributed, to the capital of the Partnership by the Partner, net of any liabilities assumed by the Partnership in connection with such contribution or to

which the contributed property is subject under section 752 of the Code; plus (ii) the amount of any net income or other item of income or gain allocated to the Partner pursuant to Article 6 hereof.

(b) Subtractions. The Capital Account shall be reduced by the sum of (i) the amount of any net loss or other item of expense, loss or deduction allocated to the Partner pursuant to Article 6 hereof; plus (ii) the Distribution Value (determined without regard to section 7701(g) of the Code) of any cash or other property distributed, or deemed to have been distributed, by the Partnership to the Partner, net of any liabilities assumed by the distributee in connection with the distribution or to which the cash or other distributed property is subject under section 752 of the Code.

(c) Other Adjustments. The Capital Account shall otherwise be adjusted by the Financial Partner in accordance with the other capital account maintenance rules of Regulation section 1.704-1(b)(2)(iv). In connection with the foregoing:

(d) Determination of Fair Market Value. In determining the balance of each Partner's Capital Account, and for all other purposes of this Agreement, the fair market value of an asset contributed to or distributed by the Partnership shall be determined in good faith by the General Partners (which shall use their reasonable efforts not to overstate or understate the fair market value of any such asset). Notwithstanding the preceding sentence, it is understood that no Partner shall have any obligation to contribute any real property asset to the Partnership unless all General Partners have agreed to the fair market value of the asset. [NOTE: The valuation of significant property assets will be reflected in the offer, as such term is defined in the Master Agreement (the "Master Agreement"), between [Oly/FM Funding] and FM Properties Inc., dated May 22, 1998, and agreed to prior to the creation of the Partnership.]

(e) Capital Account of Transferee. A transferee of all or part of an interest in the capital and profits of the Partnership shall succeed to the Capital Account of the transferor to the extent that such Capital Account relates to the transferred interest.

(f) Contribution of Note. Notwithstanding any other provision of this definition of Capital Account, if a Partner has contributed his promissory note to the capital of the Partnership and such note is not readily traded on an established securities market, then the principal of such note shall not be credited to the Partner's Capital Account until and to the extent that either (i) the Partnership makes a taxable disposition of the note or (ii) principal payments are made on the note, all in accordance with Regulation section 1.704-1(b)(2)(iv)(d)(2).

"Capital Contribution" shall mean the gross amount of cash or the fair market value of other property contributed or caused to be contributed to the capital of the Partnership by a Partner with respect to such Partner's capital account.

"Cash Flow" of the Partnership for any period shall mean any and all cash revenues generated from the ownership, sale of lots, sale of undeveloped parcels, lease and other operation of the Partnership assets and any and all capital transaction proceeds minus the sum of (i) any operating and capital expenses incurred in the operation of the business of the Partnership, including without limitation any payments of interest and principal (other than payments of

principal that are refinanced by the Partnership) on Partnership indebtedness required by the lender of such indebtedness during the quarterly period in question, and (ii) a reasonable reserve for necessary or desirable operating and capital expenses of the Partnership that are anticipated to be incurred or to become due and payable within six (6) months as the Management Committee, in the exercise of its reasonable discretion and as is consistent with the Operating Budget and the Business Plan, shall determine.

"Code" shall mean the Internal Revenue Code of 1986 and any successor statute, as amended from time to time.

"Contribution Percentage" of a General Partner shall be based on the actual equity capital contributions of such Partner in relation to the total equity capital contributions of all General Partners.

"Deadlock" shall mean the failure of the General Partners to agree with respect to any Major Decision or other issue with respect to the Partnership which could have a material adverse effect or impact to the Partnership if such issue remains unresolved between the Partners.

"Deemed Recipient" shall have the meaning set forth in Section 3.2.

"Default Amount" shall have the meaning set forth in Section 3.2.

"Default Date" shall have the meaning set forth in Section 3.2.

"Defaulting Partner" shall have the meaning set forth in Section 3.2.

"Distribution Period" shall mean (i) the period beginning on the Effective Date and ending on _____, ____ and (ii) each calendar quarter thereafter.

"Distribution Value" shall mean the dollar amount of any cash distribution and the fair market value, as jointly determined in good faith by the Partners (each of which shall use its reasonable efforts not to overstate or understate fair market value), of any non-cash property distribution at the time of the distribution, net of the distributee's share of any liabilities to which the distributed property is subject and net of any liabilities assumed by the distributee.

"Effective Date" shall have the meaning set forth in the preamble to this Agreement.

"Escrow Agent" shall have the meaning set forth in Section 7.3.

"Financial Partner" shall mean [Olympus], together with its successors and assigns.

"FM" shall have the meaning set forth in the preamble of this Agreement.

"FM Representative" shall have the meaning set forth in Section 4.2.

"Indemnified Parties" shall have the meaning set forth in Section 7.3.

"Loan" shall have the meaning set forth in Section 3.1.

"Lender" shall have the meaning set forth in Section 3.1.

"Major Decision" means any decision with respect to (1) approval of the Business Plan, including the decision to make additional Capital Contributions except as provided in Section 3.2(a); (2) approval of the Operating Budget; (3) approval of the plans and specifications for the Property, and the subsequent approval of all material change orders or amendments given in substitution for such approved plans and specifications; (4) approval of any financing or refinancing, whether secured or unsecured, unless previously approved in the Business Plan or annual Operating Budget; (5) approval of acquisition of any additional property, (6) approval of admission or withdrawal of any Partners to the Partnership, (7) approval of any sale, exchange or other disposition of the Property unless pursuant to governance deadlock provision in Section 7.3 below or in the Business Plan or annual Operating Budget; (8) approval of any amendments to the Agreement; (9) approval of any termination or dissolution of the Partnership; and (10) appointment of a successor property manager pursuant to Section 4.1.

"Management Agreement" shall have the meaning set forth in Section 4.1.

"Management Committee" shall have the meaning set forth in Section 4.2.

"Mandatory Additional Contribution" shall have the meaning set forth in Section 3.2.

"Non-Defaulting Partners" shall have the meaning set forth in Section 3.2.

"Offer Amount" shall have the meaning set forth in Section 7.3.

"Offer Deposit" shall mean the sum of Five Hundred Thousand and No/100 Dollars ($500,000.00) in cash.

"Offeree" shall have the meaning set forth in Section 7.3.

"Offeror" shall have the meaning set forth in Section 7.3.

"Olympus" shall have the meaning set forth in the preamble of this Agreement.

"Olympus Representative " shall have the meaning set forth in Section 4.2.

"Operating Budget " shall mean the budget attached hereto as Exhibit B and incorporated herein, as may be amended from time to time in accordance with the provisions hereof, or to be attached hereto within sixty (60) days of the execution of this Agreement upon approval by the Management Committee in accordance with this Agreement.

"Operating Partner" shall mean [FM], together with its successors or assigns.

"Partner" shall mean any Person executing this Agreement as of the Effective Date as a partner or hereafter admitted to the Partnership as a partner as provided in this Agreement, but does not include any Person who has ceased to be a Partner of the Partnership.

"Partnership" shall have the meaning set forth in the preamble to this Agreement.

"Partnership Interest" shall have the meaning set forth in Section 7.3.

"Person" shall mean an individual, partnership, joint venture, limited partnership, limited liability company, foreign limited liability company, trust, business trust,

estate, corporation, custodian, trustee, executor, administrator, nominee, association, cooperative or entity in a representative capacity.

"Property" shall have the meaning set forth in the preamble of this Agreement.

[To be used where applicable: "Preferred Return" shall mean the following:

(a) With respect to the first Distribution Period, the Preferred Return of a Partner shall be the product of (i) the Unreturned Capital of such Partner from time to time during such Distribution Period, times (ii) [_____ percent (____%)], times (iii) a fraction, the numerator of which is the number of days in such Distribution Period and the denominator of which is three hundred and sixty-five (365).

(b) With respect to each Distribution Period following the first Distribution Period, the Preferred Return of a Partner shall be the sum of (i) the excess (if any) of such Partner's Preferred Return determined as of the last day of the Distribution Period immediately preceding the Distribution Period under consideration over any distribution made to such Partner pursuant to Section 6.1 hereof with respect to such immediately preceding Distribution Period, plus (ii) the product of (A) the sum of (1) the excess (if any) of such Partner's Preferred Return determined as of the last day of the Distribution Period immediately preceding the Distribution Period under consideration over any distribution made to such Partner pursuant to Section 6.1 hereof with respect to such immediately preceding Distribution Period, plus (2) the Unreturned Capital (if any) of such Partner from time to time during the Distribution Period under consideration, times (B) [_____ percent (____%)], times (C) a fraction, the numerator of which is the number of days in the Distribution Period under consideration and the denominator of which is three hundred and sixty-five (365).]

"Receipt Amount" shall have the meaning set forth in Section 7.3.

"Regulation" shall mean Treasury Regulations promulgated under Title 26 of the United States Code.

"Replacement Loan" shall have the meaning set forth in Section 3.2.

"Representative" shall have the meaning set forth in Section 4.2.

"Required Capital Contributions" shall have the meaning set forth in Section 3.1.

"Required Interest" shall mean both of the General Partners.

"Sharing Ratio" shall have the meaning set forth on Schedule I attached hereto.

"Tax Matters Partner" shall have the meaning set forth in Section 8.3.

"Unreturned Capital" as of a date shall mean the following:

(a) In the case of each of the Partners, its Unreturned Capital shall be the excess, if any, of the total Capital Contributions made by such Partner over the total distributions received by such Partner under [Section

6.1(ii)] hereof prior to the date as of which such Partner's Unreturned Capital is determined.

(b) In the case of a transferee of an interest in the Partnership, the transferee's Unreturned Capital shall be the Unreturned Capital as of the date of the transfer of the transferor times a fraction, the numerator of which is the Contribution Percentage attributable to the interest in Partnership capital and profits transferred by the transferor to the transferee, and the denominator of which is the sum of the Contribution Percentages attributable to both the interest in Partnership capital and profits retained by the transferor (if any) and the interest in Partnership capital and profits transferred by the transferor to the transferee. Likewise, the Unreturned Capital of the transferor shall be reduced by the Unreturned Capital of the transferee to whom all or part of the transferor's interest in Partnership capital and profits has been transferred.

ARTICLE 2
Organization

2.1 Formation of Limited Partnership. The Partners have formed a limited partnership pursuant to and in accordance with the provisions of the Texas Revised Limited Partnership Act, as from time to time amended ("Act"). The Financial Partner shall file, on behalf of the Partnership a certificate of limited partnership with the office of the Secretary of State of Texas.

2.2 Name. The name of the Partnership is Oly FM [Property Name] L.P. The Management Committee may change the name of the Partnership from time to time and shall give prompt written notice thereof to the Operating Partner and each Limited Partner; provided, however, that such name may not contain any portion of the name or mark of the Partners without such Partner's consent. In such event, the Financial Partner shall promptly file in the office of the Secretary of State of Texas an amendment to the Partnership's certificate of limited partnership reflecting such change of name.

2.3 Character of Business. The purpose of the Partnership shall be (i) to acquire, hold, develop, sell, encumber, or otherwise act with respect to investments, direct or indirect, in the Property, and (ii) to engage in such other business as may be conducted by a limited partnership organized under the laws of the State of Texas.

2.4 Registered Office and Agent. The name and address of the Partnership's initial registered agent are Olympus Real Estate Corporation, 200 Crescent Court, Suite 1650, Dallas, Texas 75201. The Partnership's initial principal place of business shall be 200 Crescent Court, Suite 1650, Dallas, Texas 75201. The Financial Partner may change such registered agent, registered office, or principal place of business from time to time. The Financial Partner shall give prompt written notice of any such change to the Operating Partner and each Limited Partner. The Partnership may from time to time have such other place or places of business within or without the State of Texas as may be determined by the Financial Partner.

2.5 Fiscal Year. The fiscal year of the Partnership shall end on December 31 of each calendar year unless, for United States federal income tax purposes, another fiscal year is required. The Partnership shall have the same fiscal year for United States federal income tax purposes and for accounting purposes.

ARTICLE 3
Capital Contributions

3.1 Capital Contributions to the Partnership. The Partners shall contribute or be deemed to have contributed capital to the Partnership in the amounts respectively set forth opposite their names on Schedule I to this Agreement on the Effective Date (collectively, the "Required Capital Contributions"). Also, in addition to the Required Capital Contributions, the Partners acknowledge that in order to purchase and develop the Property, the Partnership will need to secure from a third party lender (the "Lender") a term loan, which shall be in the amount set forth in the Business Plan and on terms and conditions satisfactory to the Management Committee and approved in accordance with this Agreement (the "Loan").

3.2 Additional Capital Contributions.

(a) After the funding of the Required Capital Contribution set forth above (including any amounts deemed to have been contributed), and to the extent not available from proceeds of the Loan, either (i) the General Partners may agree to make additional Capital Contributions to the Partnership as are deemed advisable by the General Partners (each exercising their independent discretion) and by amendment to the Business Plan, or (ii) if either (A) there has been a default or an event of default under the Loan or (B) additional capital is necessary to complete any capital improvement program approved in the Business Plan, or (C) funds are necessary for continued operation of the Property consistent with the Business, then the Financial Partner may elect to call or not call for additional Capital Contributions (in each case, the "Mandatory Additional Contribution") to be made to the Partnership to cure any default or event of default under the Loan or to complete such capital improvement program or fund operations. The Mandatory Additional Contribution in question shall be made by the General Partners pro rata, based on the Contribution Percentages of the General Partners. This Section 3.2 is solely for the benefit of the Partners, and shall not, nor shall it be deemed to, create any rights in, or provide any benefit to, any other person or entity, and the decision to make additional contributions to the Partnership shall be made in the sole and absolute discretion of the Financial Partner, except as my be provided in the Business Plan.

(b) Each General Partner shall be required to make its Mandatory Additional Contribution to the Partnership on or before twenty-one (21) days after written notice to such Partner ("Default Date"). In the event any General Partner fails to make a Mandatory Additional Contribution as required by this Section 3.2 within the time period set forth herein (such Partner, being herein referred to as the "Defaulting Partner"), then, the "Non-Defaulting Partners" (herein so called) shall be entitled, as their sole and exclusive remedy for such failure, by giving written notice to the Defaulting Partner to make a loan (the "Replacement Loan") to the Defaulting Partner in the amount of such Mandatory Additional Contribution, which Replacement Loan (i) shall be applied solely to fund the delinquent Mandatory Additional Contribution, (ii) shall have a term of one hundred twenty (120) days from the date of such loan and (iii) shall bear interest at the lesser of (A) eighteen percent (18%) per annum and (B) the maximum rate of interest which may be charged, collected or contracted for under applicable law, with accrued interest due at the maturity of such loan (each such Replacement Loan together with all accrued interest thereon from time to time, the "Default Amount"). Anything contained in this Agreement to the contrary notwithstanding, any Partner who becomes a Defaulting Partner shall immediately and without any further demand, notice or cure period (time being of the essence herein) automatically cease to have a right to vote on all Partnership decisions from and after the Default Date for any purposes hereunder for the remainder of the life of the Partnership (unless reinstated as described below); provided, however, if a Defaulting Partner shall pay the Default Amount in full to the Non-Defaulting Partners who

elected to make such loan, on or before the expiration of the 120-day term of the Replacement Loan to such Defaulting Partner, such Defaulting Partner's voting rights hereunder shall be automatically re-instated (effective as of the date such Default Amount is paid in full) for all purposes including voting rights. If the Default Amount is not paid in full on or before the expiration of the 120-day period, the Defaulting Partner's voting rights shall not be reinstated upon the subsequent payment of the Default Amount.

(c) The Partners further agree that if the Default Amount is not repaid to the Non-Defaulting Partners within the 120-day term, then, without demand, notice or cure period (time being of the essence herein), such Default Amount shall for all purposes hereunder be deemed to be a Capital Contribution by the Non-Defaulting Partners to the Partnership effective as of the expiration of such 120-day term of such Replacement Loan, which deemed Capital Contribution shall be credited as an amount equal to the product of 200% times the Default Amount, and the Capital Account of the Defaulting Partner shall for all purposes be appropriately reduced to reflect such treatment; provided, however, with respect to any Default Amount attributable to a Replacement Loan made more than one hundred twenty (120) days after the initial Replacement Loan (which is not repaid during its 120-day term) is made by one or more Non-Defaulting Partner, the deemed Capital Contribution shall be credited as an amount equal to the product of 300% times the Default Amount, and in each case the distribution percentages of the Defaulting Partner (i.e., the pro rata share of the particular distribution which such Partner would otherwise receive under such sections) shall be reduced by, and the distribution percentages of each Non-Defaulting Partner who makes its pro rata share of such loan shall be increased by an amount equal to the quotient of (i) 200% (or 300%, as the case may be) times the Default Amount, divided by (ii) the aggregate Capital Contributions made by the Partners to the Partnership prior to the date of calculation (including the Mandatory Additional Contributions of all Non-Defaulting Partners but excluding the Default Amount then in question).

(d) The new distribution percentages computed in accordance with this Section 3.2 shall remain in effect under this Agreement unless and until there is a subsequent adjustment to the distribution percentages. Notwithstanding the foregoing, no Partner's distribution percentage shall be reduced under any circumstance to less than zero, nor shall any Partner's distribution percentage be increased under any circumstance to more than 100%. Mandatory Additional Contributions shall be made pro rata, based on the relative Contribution Percentages of the General Partners.

(e) Each Partner which becomes a Defaulting Partner hereby irrevocably grants to the other Partners a continuing, first priority, perfected security interest in the Partnership Interest of such Defaulting Partner to secure the prompt payment of each Replacement Loan made to such Defaulting Partner until such time, if ever, as the Default Amount with respect to the Replacement Loan under consideration has been converted to a deemed Capital Contribution pursuant to Section 3.2(c). On or before fifteen (15) days after any written request of any Non-Defaulting Partner, the Defaulting Partner shall execute and deliver a UCC-1 financing statement in form and substance acceptable to such Non-Defaulting Partner to evidence such security interest, the failure of which shall constitute a default under the Replacement Loan. Prior to a default or maturity of a Replacement Loan, and without limiting the remedies of the Non-Defaulting Partners, at the election of the Non-Defaulting Partners, all distributions payable to any Defaulting Partner under this Agreement shall be payable directly to the Non-Defaulting Partners (pro rata based on the relative amount of the Replacement Loan made by such

Non-Defaulting Partner) until the Replacement Loan(s) of such Defaulting Partner are paid in full (or converted to a deemed Capital Contribution), shall be paid directly to the Non-Defaulting Partners until the entire amount of the Replacement Loan is paid in full. Any amounts paid directly to a Non-Defaulting Partner pursuant to the terms of the preceding sentence shall be treated as paid to the person (the "Deemed Recipient") entitled to receive the amount of the distribution in the absence of the requirements of the preceding sentence (thereby discharging the Partnership's obligation to make the payment in question to the Deemed Recipient) and then as applied by the Deemed Recipient on behalf of the Defaulting Partner to the repayment of the Defaulting Partner's loan.

(f) EXCEPT AS SET FORTH IN SECTION 3.1 OR THIS SECTION 3.2, NO ADDITIONAL CAPITAL CONTRIBUTIONS SHALL BE REQUIRED BY ANY PARTNER UNLESS AN EXPRESS WRITTEN CALL FOR A CAPITAL CONTRIBUTION IS MADE BY THE FINANCIAL PARTNER TO EACH OF THE GENERAL PARTNERS.

3.3 No Return of Capital Contributions. No Partner is entitled to a return of its Capital Contribution, but shall look solely to distributions from the Partnership as provided for in Article 6 of this Agreement.

3.4 Interest. No Partner shall be entitled to interest on its Capital Contribution or its Capital Account, provided that each Partner's Capital Contribution shall accrue the Preferred Return (which shall not be deemed to be interest) as set forth herein. Any interest actually received by reason of temporary investment of any part of the Partnership's funds shall be included in the Partnership's funds.

ARTICLE 4
Rights and Obligations of Partners

4.1 Management of Partnership. The management, control and direction of the Partnership and its operations, business and affairs shall be vested exclusively in the Management Committee, which shall have the right, power and authority, acting solely by itself and without the necessity of approval by any Limited Partner or any other person, to carry out any and all of the purposes of the Partnership and to perform or refrain from performing any and all acts that the Management Committee may deem necessary, desirable, appropriate or incidental thereto, except as otherwise provided in this Agreement; provided, however, that the Operating Partner shall manage the Partnership and its operations, business and affairs solely as described in Section 4.5. The Management Committee may assume the management duties and responsibilities of the Operating Partner as set forth in Section 4.5 at any time in the event the Management Committee determines in its good faith discretion that either (i) the Operating Partner has acted negligently or with willful misconduct in performing its duties or (ii) the monthly financial reports of the Partnership reveal a material adverse deviation from the Business Plan more than three (3) times within any twelve (12) month period. The Management Committee agrees that prior to its exercise of its right to assume the management duties and responsibilities of the Operating Partner as result of either default by the Operating Partner, the Management Committee shall first deliver written notice of said default to the Operating Partner and give the Operating Partner ten (10) days thereafter in which to cure said default, the Operating Partner so elects. No Limited Partner shall participate in the management, control or direction of the Partnership's operations, business or affairs, transact any business for the Partnership, or have the power to act for or on behalf of or to bind the Partnership. Notwithstanding anything to the contrary provided herein, the Property shall be managed in accordance with the terms and conditions of that certain Management Agreement (the "Management Agreement") dated of even date herewith by and between_____ and_____.

4.2 Management Committee.

[The structure and duties of the Management Committee are subject to the proposal process of Section 2.1 of the Master Agreement. Two (2) alternatives, depending on the Capital Contributions of Olympus and FM, are provided below.]

[Alternative 1

(a) The "Management Committee" (herein so called) shall consist of three (3) representatives, one (1) of which shall be designated by [Partner 1] (the "[Partner 1] Representative") and two (2) of which shall be designated by [Partner 2] (jointly, the "[Partner 2] Representative") (individually, a "Representative and collectively, the "Representatives"). The initial Representatives designated by [Partner 1] and [Partner 2] are set forth opposite such Partner's name below:

Partner	Initial Representative
[Partner 1]	
[Partner 2]	
[Partner 2]	

Olympus and FM may appoint alternates for the Representatives appointed by it, which alternates shall have all the powers of the Representatives in their absence or inability to serve. Olympus and FM may change its designated Representatives effective upon written notice from Olympus or FM designating such Representative to the other Partners. One of the [Partner 2] Representatives shall serve as Chairman of the Management Committee and shall set the agenda for such meetings.

(b) The Representatives shall meet quarterly (or more often as the Management Committee may reasonably determine) in the offices of the Partnership or by telephone conference, unless the Representatives jointly agree that the meeting is unnecessary or that a different schedule or location for the meeting is appropriate, to discuss current material management issues (but not day-to-day operations matters which are in accordance with the operation parameters set forth in the Business Plan, Operating Budget or otherwise set forth in writing) or Major Decisions. At each meeting the Representatives shall each receive one (1) vote. All action taken by the Management Committee shall require the approval or consent of at least two (2) Representatives except Major Decisions which require unanimous consent as described in Section 4.3 below. Representatives may bring to any meeting such employees, agents, professionals and advisors as they deem necessary or appropriate to assist them at such meeting. A quorum shall consist of at least one [Partner 1] Representative and one [Partner 2] Representative unless the [Partner 1] Representative has declined to attend two (2) consecutive meetings, which are scheduled with at least seventy-two (72) hours prior notice for each meeting at the offices of the Partnership, in which event the quorum may be two (2) [Partner 2] Representatives.

(c) The Financial Partner, on behalf of the Management Committee, shall be authorized and empowered to (i) make all day-to-day management decisions (provided that such decisions are consistent with the operation parameters set forth in the Business Plan, Operating Budget or otherwise in writing) except for Major Decisions, (ii) direct the Operating Partner, (iii) perform all acts and enter into and perform all contracts and other undertakings that the Financial Partner may, in the exercise of its

reasonable discretion, deem necessary, advisable, appropriate or incidental thereto consistent with the Business Plan and Operating Budget and (iv) terminate the property manager in the event of a default in the Management Standard (as that term is defined in the Management Agreement), provided, if the property manager is terminated, then the Partnership (as a Major Decision) shall designate a successor property manager.]

[Alternative 2

(a) The "Management Committee" (herein so called) shall consist of four (4) representatives, two (2) of which shall be designated by [Partner 1] (jointly, the "[Partner 1] Representative") and two (2) of which shall be designated by [Partner 2] (jointly, the "[Partner 2] Representative") (individually, a "Representative and collectively, the "Representatives"). The initial Representatives designated by [Partner 1] and [Partner 2] are set forth opposite such Partner's name below:

Partner	Initial Representative
[Partner 1]	
[Partner 1]	
[Partner 2]	
[Partner 2]	

Olympus and FM may appoint alternates for the Representatives appointed by it, which alternates shall have all the powers of the Representatives in their absence or inability to serve. Olympus and FM may change its designated Representatives effective upon written notice from Olympus or FM designating such Representative to the other Partners. One of the [Partner 2] Representatives shall serve as Chairman of the Management Committee and shall set the agenda for such meetings.

(b) The Representatives shall meet quarterly (or more often as the Management Committee may reasonably determine) in the offices of the Partnership or by telephone conference, unless the Representatives jointly agree that the meeting is unnecessary or that a different schedule or location for the meeting is appropriate, to discuss current material management issues (but not day-to-day operations matters which are in accordance with the operation parameters set forth in the Business Plan, Operating Budget or otherwise set forth in writing) or Major Decisions. At each meeting the Representatives shall each receive one (1) vote. All action taken by the Management Committee shall require the approval or consent of at least three (3) Representatives except Major Decisions which require unanimous consent as described in Section 4.3 below.

Representatives may bring to any meeting such employees, agents, professionals and advisors as they deem necessary or appropriate to assist them at such meeting. A quorum shall consist of at least one [Partner 1] Representative and one [Partner 2] Representative unless both [Partner 2] Representatives have declined to attend two (2) consecutive meetings, which are scheduled with at least seventy-two (72) hours prior notice for each meeting at the offices of the Partnership, in which event the quorum may be two (2) [Partner 1] Representatives, and vice versa.

(c) The Financial Partner, on behalf of the Management Committee, shall be authorized and empowered to (i) make all day-to-day management decisions (provided that such decisions are consistent with the operation parameters set forth in the Business Plan, Operating Budget or otherwise in writing) except for Major Decisions, (ii) direct the Operating Partner, (iii) perform all acts and

enter into and perform all contracts and other undertakings that the Financial Partner may, in the exercise of its reasonable discretion, deem necessary, advisable, appropriate or incidental thereto and (iv) terminate the property manager in the event of a default in the Management Standard (as that term is defined in the Management Agreement), provided, if the property manager is terminated, then the Partnership (as a Major Decision) shall designate a successor property manager.]

4.3 Major Decisions. All Major Decisions shall be made by both the [Partner 1] Representative and the [Partner 2] Representative. Accordingly, neither FM nor Olympus, on behalf of the Management Committee, shall have the right or the power to make any binding commitment on behalf of the Partnership in respect of a Major Decision unless and until all of the Representatives have authorized the same in writing.

4.4 Budgets and Reports.

(a) By January 31st of each calender year hereafter during the term hereof, the Operating Partner shall prepare a revised Operating Budget and the Business Plan for the operation of the Partnership. The Management Committee shall have thirty (30) days after receipt thereof to either approve the submitted Business Plan and Operating Budget or respond with required changes to same.

(b) The Operating Partner agrees to use diligence and to employ all reasonable efforts to ensure that the actual costs of operating the Partnership shall not exceed the Operating Budget, either in total or for any one accounting category. The Operating Partner shall secure the written approval of the Management Committee for any expenditure that (i) exceeds fifteen percent (15%) of the annual budgeted amount for the Partnership in any one accounting category on such Operating Budget or (ii) exceeds ten percent (10%) of the annual budgeted amount for the Partnership in all accounting categories of the Operating Budget. During each applicable calendar year, the Operating Partner agrees to promptly inform the Management Committee of any major increases in costs and expenses or any major decreases in revenue that were not foreseen during the budget preparation period and thus were not reflected in the Operating Budget.

(c) The Operating Partner shall also submit any additional financial or operational reports as the Financial Partner may from time to time reasonably request.

4.5 Powers of the Operating Partner. Subject to Section 4.3, the Operating Partner shall have the duties, rights and obligations to implement the operations of the Partnership as described in the Business Plan, Operating Budget or approved in writing by the Management Committee. Without limiting the generality of Section 4.1, but subject to Section 4.3, the Operating Partner, acting on behalf of the Partnership, shall oversee the activities of property manager, or, if the Management Agreement is terminated, until a successor property manager is appointed, perform the duties, rights and obligations of the property manager; provided, however, neither the Operating Partner nor the property manager shall take any action that has a material economic affect on the Partnership without the prior approval of the Management Committee, including, without limitation, approving the form and substance of all contracts, loan documents or other documents necessary to operate the business of the Partnership.

4.6 Liability of Partners. The General Partners shall be personally liable for the debts and obligations of the Partnership if (but solely to the extent) required by applicable law; provided, however, that all such debts and obligations shall be paid or discharged first with the property of the Partnership (including insurance proceeds) before the General Partners shall be obligated to pay or discharge any such debt or obligation with

its personal assets. Notwithstanding the preceding sentence, the General Partners shall not be personally liable for any debts or obligations which are nonrecourse or which, under the terms thereof, do not create or impose such liability. No Limited Partner shall be personally liable for any of the debts or obligations of the Partnership.

4.7 Other Activities of Partners. Except as otherwise agreed in writing, including, but not limited to, the Commitment Agreement, each Partner (i) may carry on and conduct in any way or in any capacity, including, but not limited to, for such Partner's own right and for such Partner's own personal account, as a partner in any other partnership, as a venturer in any joint venture, as a member or manager in any limited liability company, as an employee, officer, director or stockbroker of any corporation, or as a participant in any syndicate, pool, trust, association or other business organization, a business that competes, directly or indirectly, with the business of the Partnership, (ii) will be free in any capacity to conduct business activities the same or similar as conducted by the Partnership and (iii) may make investments in any kind of property. The Partnership will have absolutely no claim or right to any such business or assets thereof. Further, the Partnership will have claim to and will own only those assets contributed to the Partnership or acquired with Partnership funds or credit. Neither this Agreement nor any principle of law or equity shall preclude or limit, in any respect, the right of any Partner or any affiliate thereof to engage in or derive profit or compensation from any activities or investments, nor give any other Partner any right to participate or share in such activities or investments or any profit or compensation derived therefrom.

ARTICLE 5
Exculpation and Indemnity

5.1 Exculpation. Neither the General Partners nor any affiliate of the General Partners, nor any officer, director, manager, member, employee, agent, stockholder, or partner of the General Partners or any of its affiliates, shall be liable, responsible, or accountable in damages or otherwise to the Partnership or any Partner by reason of, or arising from or relating to the operations, business, or affairs of, or any action taken or failure to act on behalf of, the Partnership, except to the extent that any of the foregoing is determined, by a final, nonappealable order of a court of competent jurisdiction, to have been primarily caused by the gross negligence, willful misconduct, or bad faith of the person claiming exculpation.

5.2 Indemnity. The Partnership shall indemnify the General Partners, each affiliate of the General Partners, and each officer, director, stockholder, manager, member, and partner of the General Partners or any of its affiliates, and if so determined by the General Partners, each employee or agent of the General Partners or any of its affiliates, against any claim, loss, damage, liability, or expense (including reasonable attorneys' fees, court costs, and costs of investigation and appeal) suffered or incurred by any such indemnitee by reason of, or arising from or relating to the operations, business, or affairs of, or any action taken or failure to act on behalf of, the Partnership, except to the extent any of the foregoing (i) is determined by final, nonappealable order of a court of competent jurisdiction to have been primarily caused by the gross negligence, willful misconduct, or bad faith of the person claiming indemnification or (ii) is suffered or incurred as a result of any claim (other than a claim for indemnification under this Agreement) asserted by the indemnitee as plaintiff against the Partnership. Unless a determination has been made (by final, nonappealable order of a court of competent jurisdiction) that indemnification is not required, the Partnership shall, upon the request of any indemnitee, advance or promptly reimburse such indemnitee's reasonable costs of investigation, litigation, or appeal, including reasonable attorneys' fees; provided, however,

that the affected indemnitee shall, as a condition of such indemnitee's right to receive such advances and reimbursements, undertake in writing to repay promptly the Partnership for all such advancements or reimbursements if a court of competent jurisdiction determines that such indemnitee is not then entitled to indemnification under this Section 5.2. No Partner shall be required to contribute capital in respect of any indemnification claim under this Section 5.2 unless otherwise provided in any other written agreement to which such Partner is a party.

ARTICLE 6
Distributions and Allocations

6.1 Distributions. No later than thirty (30) days after the end of each Distribution Period during which the Partnership has Cash Flow, such Cash Flow shall be distributed as set forth below and in the order of priority as set forth below. [Economic terms to be agreed per proposal process of Section 2.1 of the Commitment Agreement.]

6.2 Tax Allocations. For United States federal income tax purposes, allocations of items of income, gain, loss, deduction, expense, and credit for each fiscal year of the Partnership shall be in accordance with each Partner's economic interest in the respective item, as determined by the Management Committee pursuant to Section 704(b) of the Code, and the regulations promulgated thereunder and subject to the requirements of Section 704(c) of the Code and the regulations promulgated thereunder. Unless the Management Committee determines otherwise, allocations shall be made to each Partner in the same manner as such Partner (i) would be required to contribute to the Partnership or (ii) would receive as distributions if the Partnership were to liquidate the assets of the Partnership at their book value and distribute the proceeds in accordance with Section 6. ; provided, however, that if any such allocation is not permitted by applicable law, the Partnership's subsequent income, gain, loss, deduction, expense and credit shall be allocated among the Partners so as to reflect as nearly as possible the allocation used in computing capital accounts.

ARTICLE 7
Admissions, Transfers and Withdrawals

7.1 Admission of New Partners. After the Effective Date, new Partners may be admitted to the Partnership only with the written consent of, and upon such terms and conditions as are approved by the unanimous approval of the Management Committee. No admission of any new Partner shall cause the General Partner's interest in Partnership allocations, distributions and capital to be less than one percent (1%), and no Partner's Sharing Ratio in the Partnership shall be reduced or diluted unless approved in writing by such Partner or unless otherwise provided in any other written agreement to which such Partner is a party.

7.2 Transfer of Partnership Interests.

(a) No Transfers Without Consent. No Partner may transfer or encumber all or any portion of such Partner's interest in the Partnership without the prior written consent of the Management Committee; provided, however, that Olympus may transfer all or any portion of its interest in the Partnership to an Affiliate of Olympus Real Estate Corporation without the consent of FM. Additionally, any interest in the Partnership held by Olympus or its Affiliates may be transferred in the exercise of rights of the limited partners of Olympus Real Estate Fund II, L.P. ("Fund II") to remove the general partner under the limited partnership agreement of Fund II.

(b) Death, Bankruptcy, etc. of Limited Partner. In the event of the death, incompetence, insolvency, bankruptcy, termination, liquidation or dissolution of any Limited Partner:

(i) the Partnership shall not be terminated or dissolved, and the remaining Partners shall continue the Partnership and its operations, business and affairs until the dissolution thereof as provided in Section 10.1 of this Agreement;

(ii) such affected Limited Partner shall thereupon cease to be a Partner for all purposes of this Agreement and no officer, partner, beneficiary, creditor, trustee, receiver, fiduciary or other legal representative and no estate or other successor in interest of such Limited Partner (whether by operation of law of otherwise) shall become or be deemed to become a Limited Partner for any purpose under this Agreement;

(iii) the Partnership interest of such affected Limited Partner shall not be subject to withdrawal or redemption in whole or in part prior to the dissolution, liquidation and termination of the Partnership;

(iv) the estate or other successor in interest of such affected Limited Partner shall be deemed a transferee of, and shall be subject to all of the obligations with respect to, the Partnership interest of such affected Limited Partner as of the date of death, incompetence, insolvency, bankruptcy, termination, liquidation or dissolution, except to the extent the Management Committee releases such estate or successor from such obligations; and

(v) any legal representative or successor in interest having lawful ownership of the assigned Partnership interest of such affected Limited Partner shall have the right to receive notices, reports and distributions, if any, to the same extent as would have been available to such affected Limited Partner.

7.3 Buy/Sell Option.

(a) In the event of a Deadlock at any time during the term of the Partnership, either General Partner may exercise a "buy-sell" right (the "Buy-Sell") as follows: either General Partner (the "Offeror") exercising such Buy-Sell (A) shall deliver to the other General Partner (the "Offeree") a written notice (the "Buy/Sell Offer") stating the Offeror's exercise of such right and setting forth the Buy/Sell Offer and a description of any negotiations or discussions with third parties that Offeror may have had with respect to the sale of the Partnership Interest and the Business, which Buy/Sell Offer shall represent the dollar amount (without reduction for any deemed or imputed expenses of sale) that the Offeror would be willing to pay to the Partnership in cash for the Business (the "Offer Amount") and (B) simultaneously with the delivery of the Buy/Sell Offer, shall deliver into escrow with a title insurance company located in Dallas, Texas selected by the Offeror (the "Escrow Agent"), a good faith deposit in the amount of the Offer Deposit. The Offeror hereby instructs the Escrow Agent that the Escrow Agent shall either (i) in the event the Offeree elects to sell its interest in the Partnership (the "Partnership Interest") in accordance with the terms hereof, apply such Offer Deposit to the purchase price as of the Buy/Sell Closing Date (as hereinafter defined) or if the Offeror fails to timely purchase the Offeree's Partnership Interest in accordance with the terms hereof, disburse such Offer Deposit in accordance with Section 7.3(g), or (ii) in the event the Offeree elects to purchase the Offeror's Partnership Interest, disburse such Offer Deposit in accordance with Section 7.3(e).

(b) The notice transmitting the Buy/Sell Offer shall be deemed to constitute an offer by the Offeror to purchase the Offeree's Partnership Interest for a price equal to the

Receipt Amount. "Receipt Amount" shall mean the aggregate amount which the Partner whose Partnership Interest is to be transferred, whether Offeror or Offeree, would receive as a Partnership distribution if (i) the Business were sold for cash for the Offer Amount, (ii) all debts and liabilities of the Partnership but without taking into account any deemed or imputed expenses which would occur for the sale to third parties (e.g. imputed brokerage fees, etc.) were paid in full from such proceeds and (iii) prorations were made with respect to all current assets and current liabilities of the Partnership.

(c) The Offeree shall have forty-five (45) days from the date of the Buy/Sell Offer to elect, by written notice to the Offeror signed by the Partner constituting the Offeree, whether to sell such Offeree's Partnership Interest to the Offeror or whether to purchase (or cause its designee to purchase) the Offeror's Partnership Interest in the Partnership (the "Buy/Sell Election Period").

(d) If the Offeree fails to make an election within such forty-five (45) day period, or fails to comply with subsection (e) below, such Offeree shall be conclusively deemed to have elected to sell its Partnership Interest in the Partnership to the Offeror according to the terms of this Section 7.3.

(e) If the Offeree makes an election to purchase within such forty-five (45) day period by sending written notice to the Offeror as required by subsection (c), and by delivering into escrow with the Escrow Agent a good faith deposit in the amount of the Offer Deposit, then, the original Offeror shall be conclusively deemed to have elected to sell its Partnership Interest in the Partnership to the Offeree for a price equal to the applicable Receipt Amount. In the event the Offeree timely makes an election to purchase, the Offeree hereby instructs the Escrow Agent that the Escrow Agent shall (i) return the Offeror's Offer Deposit to the Offeror and (ii) hold the Offeree's Offer Deposit and shall either apply such Offeree's Offer Deposit to the purchase price or disburse such Offeree's Offer Deposit in accordance with Section 7.3(g).

(f) The General Partner (the "Buy/Sell Purchaser") that is obligated to purchase the Partnership Interest in the Partnership of the other General Partner (the "Buy/Sell Seller") pursuant to this Section 7.3 shall fix a closing date (the "Buy/Sell Closing Date") for such purchase that is not a Business Day that is not later than forty-five (45) days after the expiration of the Buy/Sell Election Period, by written notice to the Buy/Sell Seller at least fifteen (15) days in advance of Buy/Sell Closing Date. The closing of such purchase shall take place on the Buy/Sell Closing Date at the address of the Escrow Agent. At such closing, the Partner constituting the Buy/Sell Seller shall execute and deliver to the Buy/Sell Purchaser (or its designee) such instruments of assignment, bills of sale, amendments to this Agreement and other instruments and documents as the Buy/Sell Purchaser and the Buy/Sell Seller (or such designee) may reasonably require for the conveyance to such Buy/Sell Purchaser (or such designee) of all of the Buy/Sell Seller's right, title and interest in and to the Buy/Sell Seller's Partnership Interest in the Partnership against receipt by the Buy/Sell Seller of a wire transfer of immediately available funds in an amount equal to the applicable Receipt Amount; and the Buy/Sell Seller hereby irrevocably constitutes and appoints the Buy/Sell Purchaser as its attorney-in-fact to execute, acknowledge and deliver any of such instruments or documents. Each of the Buy/Sell Seller and Buy/Sell Purchaser shall each bear their respective closing costs and expenses (including, but not limited to, all attorney's fees and costs and all applicable transfer and income taxes) incurred in the purchase or sale of the Buy/Sell Seller's Partnership Interest in the Partnership hereunder. Such sale of such Partnership

Interest shall be made without representation, warranty or recourse, except for representations and warranties in form and substance reasonably acceptable to the Buy/Sell Purchaser and the Buy/Sell Seller with respect to existence, good standing, title, no encumbrance, authority, authorization, no conflicts, and such other customary matters as may be reasonably requested by the Buy/Sell Purchaser. If the Buy/Sell Offer or the closing of the purchase contemplated thereby causes the maturity of any Partnership indebtedness to be accelerated, the Buy/Sell Seller shall be released from liability resulting from such accelerated indebtedness and the Buy/Sell Purchaser shall pay such indebtedness in full (including without limitation, any accrued but unpaid interest and any prepayment premiums or penalties) at Buy/Sell Purchaser's sole cost and expense and shall indemnify and hold Buy/Sell Seller harmless from and against any losses, damages, costs or expenses (including attorneys' fees) incurred by Buy/Sell Seller, or the Buy/Sell Seller's Affiliates, employees, agents, representatives, consultants, attorneys, fiduciaries, servants, officers, directors, partners, predecessors, successors and assigns and Affiliates of the foregoing (the "Indemnified Parties"), as a direct or indirect result thereof, other than any losses, damages, costs or expenses (including attorneys' fees) incurred by any of the Indemnified Parties as a direct result of such Indemnified Party's bad conduct. As a precondition to the closing of the Buy/Sell transaction, the Buy/Sell Seller shall be released from liability from any indebtedness of the Partnership, including, without limitation, the release of any guaranty and collateral pledged to secure any guaranty debt. Anything contained in this Agreement to the contrary notwithstanding, in the event the sale of the Partnership Interest is not consummated because of a default on the part of Buy/Sell Seller or if a condition precedent cannot be fulfilled because Buy/Sell Seller frustrated such fulfillment, Buy/Sell Purchaser may, at its election, pursue an action for specific performance and/or costs and expenses.

(g) In the event that the Buy/Sell Purchaser defaults in its obligation to purchase the Partnership Interest of the Buy/Sell Seller in the Partnership on the Buy/Sell Closing Date, the Buy/Sell Seller shall have the right to (i) solicit third party offers on behalf of the Partnership for the purchase of the Business, to accept the best such offer, as determined by the Buy/Sell Seller in its sole and absolute discretion, and to consummate the sale of the Business to such third party pursuant to such offer, (ii) purchase the Partnership Interest of the Buy/Sell Purchaser for a purchase price equal to ninety percent (90%) of the aggregate Partnership distributions that the Buy/Sell Purchaser would be entitled to receive under this Agreement if the Business were sold for cash for the Offer Amount and all debts and liabilities of the Partnership (excluding imputed sale expenses) were paid in full from such proceeds and proration were made with respect to all current assets and current liabilities of the Partnership, (iii) specifically enforce the Buy/Sell Purchaser's obligation to purchase the Partnership interest of the Buy/Sell Seller, and (iv) notify the Escrow Agent holding the Offer Deposit of the Buy/Sell Purchaser immediately to deliver such Offer Deposit to the Buy/Sell Seller as liquidated damages for the breach by such Buy/Sell Purchaser (and the Buy/Sell Purchaser covenants and agrees to cause, and hereby instructs, the Escrow Agent to deliver such Offer Deposit to the Buy/Sell Seller). The delivery of the Offer Deposit to the Buy/Sell Seller shall not constitute a return of capital. The Buy/Sell Purchaser hereby constitutes and appoints the Buy/Sell Seller as its attorney-in-fact to execute and deliver on behalf of the Buy/Sell Purchaser all documents as may be reasonably required in connection with the delivery by the Escrow Agent of the Offer Deposit to the Buy/Sell Seller.

7.4 No Substituted Partners. Except as permitted by Section 7.1, no transferee of any general or limited partnership interest in the Partnership may become a substituted General or Limited Partner. Rather, any transferee of any Partnership interest of a Partner shall be entitled solely to rights as assignee of the rights to receive all or part of the share of the income, gains, losses, deductions, expenses, credits, distributions, or returns of capital to which his or its transferor would otherwise be entitled with respect to the Partnership interest so transferred.

7.5 Withdrawal of Partners. Except as permitted by Section 7.2 hereof, no Partner shall have any right to withdraw or resign from the Partnership without the unanimous consent of the Management Committee.

ARTICLE 8
General Accounting Provisions and Books

8.1 Books of Account; Tax Returns. The Financial Partner shall prepare and file, or shall cause to be prepared and filed, all United States federal, state, and local income and other tax returns required to be filed by the Partnership and shall keep or cause to be kept complete and appropriate records and books of account in which shall be entered all such transactions and other matters relative to the Partnership's operations, business and affairs as are usually entered into records and books of account that are maintained by persons engaged in business of like character or are required by the Act. Except as otherwise expressly provided herein, such books and records shall be maintained in accordance with the basis utilized in preparing the Partnership's United States federal income tax returns, which returns, if allowed by applicable law, may upon the approval of the Management Committee be prepared on an accrual basis.

8.2 Place Kept; Inspection. The books and records shall be maintained at the principal place of business of the Partnership, and all such books and records shall be available for inspection and copying at the reasonable request, and at the expense, of any Partner during the ordinary business hours of the Partnership.

8.3 Tax Matters Partner. The Financial Partner shall be the tax matters partner of the Partnership and, in such capacity, shall exercise all rights conferred, and perform all duties imposed, upon a tax matters partner under Sections 6221 through 6233 of the Code and the regulations promulgated thereunder; provided, however, that the Operating Partner shall have the right to review and approve any actions taken by the Financial Partner in its capacity as the tax matters partner. Notwithstanding the foregoing, the Financial Partner shall have the right to select the methodology to be used pursuant to Section 704(c) of the Code subject to the Operating Partner's consent, which consent shall not be unreasonably withheld.

ARTICLE 9
Amendments and Waivers

9.1 Amendments and Waivers. Except as expressly provided in Section 9.3 of this Agreement, the Management Committee may, whether with or without the consent or vote of any Limited Partner, amend or waive any provision of this Agreement which merely (i) reflects the admission or withdrawal of one or more Limited Partners in accordance with this Agreement, (ii) corrects an error or clarifies an ambiguity in this Agreement, (ii) does not adversely affect the Financial Partner or the Operating Partner in any material respect or (iii) changes Schedule I to this Agreement to reflect the Sharing Ratios or Partnership Interests of the Partners as from time to time amended in accordance with this Agreement. The Management Committee shall amend Schedule I to this Agreement to reflect any additional Capital Contributions. The Partners agree to look to the books and records of the Partnership for determination of the actual amount of Capital Contributions made to the Partnership,

as provided in Section 3.1 of this Agreement.

9.2 Certain Other Amendments. Notwithstanding any provision to the contrary contained herein, no amendment to or waiver of any provision of this Agreement shall be effective against a given Partner without the consent or vote of such Partner if such amendment or waiver would (i) cause the Partnership to fail to be treated as a limited partnership under the Act or cause a Limited Partner to become liable as a general partner of the Partnership, (ii) change Section 3.1 of this Agreement to increase a Partner's obligation to contribute to the capital of the Partnership, (iii) change Section 5.1 or 5.2 of this Agreement to affect adversely any Partner's rights to exculpation or indemnification, (iv) change Section 6.1 or 6.2 of this Agreement to affect adversely the participation of such Partner in the income, gains, losses, deductions, expenses, credits, capital or distributions of the Partnership (including any amendments to admit one or more new Limited Partners or General Partners), (v) change Section 7.1 of this Agreement to affect adversely the anti-dilution rights of such Partner, (vi) change the percentage of Partners necessary for any consent or vote required hereunder to the taking of any action or (vii) amend Section 9.2 of this Agreement.

ARTICLE 10
Dissolution and Termination

10.1 Dissolution. The Partnership shall be dissolved upon the first to occur of the following events:

(i) the election of the both General Partners to dissolve the Partnership with the consent of the Limited Partners then representing eighty percent (80%) in interest of all Limited Partners at any time;

(ii) the election of the Financial Partner to dissolve the Partnership if all or substantially all Partnership assets shall have been sold or disposed of or shall consist of cash;

(iii) both the General Partners shall have withdrawn from the Partnership within the meaning of the Act, or any other dissolution event specified in the Act shall have occurred;

(iv) the Financial Partner shall have (A) made a general assignment for the benefit of creditors, (B) filed a voluntary petition in bankruptcy, (C) filed a petition or answer seeking for itself any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under any bankruptcy or debtor relief law, (D) filed an answer or other pleading admitting or failing to contest the material allegations of a petition filed against it in any bankruptcy or insolvency proceeding brought against it or (E) sought, consented to, or acquiesced in the appointment of a trustee, receiver or liquidator of the Financial Partner or of all or any substantial part of its property;

(v) if within sixty (60) days after the commencement of any proceeding against the Financial Partner seeking reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under any bankruptcy or debtor relief law, the proceeding shall not have been dismissed; or

(vi) if within sixty (60) days after the appointment (without the Financial Partner's consent or acquiescence) of a trustee, receiver or liquidator of the Financial Partner or of all or any substantial part of its property, the appointment shall not have been

vacated or stayed if within sixty (60) days after the expiration of any such stay, the appointment shall not have been vacated.

Notwithstanding the foregoing, the Partnership shall not be dissolved upon the occurrence of an event specified in (iii) through (vi) of this Section 10.1 if within ninety (90) days after such occurrence a majority in interest (under applicable federal income tax principles) of the remaining Partners agree in writing to continue the business of the Partnership and to the appointment, effective as of the date of withdrawal, of a successor Financial Partner.

10.2 Accounting on Dissolution. Following the dissolution of the Partnership pursuant to Section 10.1 of this Agreement, the books of the Partnership shall be closed, and a proper accounting of the Partnership's assets, liabilities and operations shall be made by the Financial Partner, all as of the most recent practicable date. The Financial Partner shall serve as the liquidator of the Partnership unless it has been removed or unless it otherwise fails or refuses to serve. If the Financial Partner does not serve as the liquidator, one or more other persons or entities may be selected to serve by the Operating Partner. The expenses incurred by the liquidator in connection with the dissolution, liquidation and termination of the Partnership shall be borne by the Partnership.

10.3 Termination. As expeditiously as practicable, but in no event later than one year (except as may be necessary to realize upon any material amount of property that may be illiquid), after the dissolution of the Partnership pursuant to Section 10.1 of this Agreement, the liquidator shall cause the Partnership to pay the current liabilities of the Partnership and (i) establish a reserve fund (which may be in the form of cash or other property, as the liquidator shall determine) for any and all other liabilities, including contingent liabilities, of the Partnership in a reasonable amount determined by the liquidator to be appropriate for such purposes or (ii) otherwise make adequate provision for such other liabilities. To the extent that cash required for the foregoing purposes is not otherwise available, the liquidator may sell property, if any, of the Partnership for cash. Thereafter, all remaining cash or other property, if any, of the Partnership shall be distributed to the Partners in accordance with the provisions of Section 6.1 of this Agreement. The Partners must agree on the value and distributee for all in-kind distributions or else all property must be sold and the proceeds distributed in accordance herewith. At the time final distributions are made in accordance with Section 6.1 of this Agreement, a certificate of cancellation shall be filed in accordance with the Act, and the legal existence of the Partnership shall terminate, but if at any time thereafter any reserved cash or property is released because in the judgment of the liquidator the need for such reserve has ended, then such cash or property shall be distributed in accordance with Section 6.1 of this Agreement.

10.4 No Negative Capital Account Obligation. Notwithstanding any other provision of this Agreement to the contrary, in no event shall any Partner who has a negative capital account upon final distribution of all cash and other property of the Partnership be required to restore such negative account to zero.

10.5 No Other Cause of Dissolution . The Partnership shall not be dissolved, or its legal existence terminated, for any reason whatsoever except as expressly provided in this Article 10.

10.6 Merger. Subject to the rights of the Partners pursuant to Section 9.2, the Partnership may, with the written consent of the Financial Partner acting with the unanimous approval of the Management Committee, adopt a plan of merger and engage in any merger permitted by applicable law.

ARTICLE 11

Miscellaneous

11.1 Waiver of Partition. Each Partner hereby irrevocably waives any and all rights that he or it may have to maintain an action for partition of any of the Partnership's property.

11.2 Entire Agreement. This Agreement constitutes the entire agreement among the Partners with respect to the subject matter hereof and supersedes any prior agreement or understanding among them with respect to such subject matter.

11.3 Severability. If any provision of this Agreement, or the application of such provision to any person or circumstance, shall be held invalid under the applicable law of any jurisdiction, the remainder of this Agreement or the application of such provision to other persons or circumstances or in other jurisdictions shall not be affected thereby. Also, if any provision of this Agreement is invalid or unenforceable under any applicable law, then such provision shall be deemed inoperative to the extent that it may conflict therewith and shall be deemed modified to conform with such law. Any provision hereof that may prove invalid or unenforceable under any law shall not affect the validity or enforceability of any other provision hereof.

11.4 Notices. All notices, requests, demands, and other communications hereunder shall be in writing and shall be deemed to have been duly given if sent by overnight courier, hand delivered, mailed (first class registered mail or certified mail, postage prepaid), or sent by telex or telecopy if to the Partners, at the addresses or telex or facsimile numbers set forth on Schedule I hereto, and if to the Partnership, at the address of its principal place of business at 200 Crescent Court, Suite 1650, Dallas, Texas 75201 (fax 214/740-7340), or to such other address as the Partnership or any Partner shall have last designated by notice to the Partnership and all other parties hereto in accordance with this Section 11.4. Notices sent by hand delivery shall be deemed to have been given when received; notices mailed in accordance with the foregoing shall be deemed to have been given three days following the date so mailed; notices sent by telex or telecopy shall be deemed to have been given when electronically confirmed; and notices sent by overnight courier shall be deemed to have been given on the next business day following the date so sent.

11.5 Governing Laws. This Agreement shall be governed by and construed and enforced in accordance with the laws of the State of Texas (without regard to principles of conflicts of laws).

11.6 Successors and Assigns. Except as otherwise specifically provided, this Agreement shall be binding upon and inure to the benefit of the Partners and their respective successors and permitted assigns.

11.7 Counterparts. This Agreement may be executed in one or more counterparts, all of which shall constitute one and the same instrument.

11.8 Headings. The section and article headings in this Agreement are for convenience of reference only and shall not be deemed to alter or affect the meaning or interpretation of any provision hereof.

11.9 Other Terms. All references to "Articles" and "Sections" contained in this Agreement are, unless specifically indicated otherwise, references to articles, sections, subsections, and paragraphs of this Agreement. Whenever in this Agreement the singular number is used, the same shall include the plural where appropriate (and vice versa), and words of any gender shall include each other gender where appropriate. As used in this Agreement, the following words or phrases shall have the meanings indicated: (i) "or" shall mean "and/or"; (ii) "day" shall mean a calendar day; (iii) "including" or "include" shall

mean "including without limitation"; and (iv) "law" or "laws" shall mean statutes, regulations, rules, judicial orders, and other legal pronouncements having the effect of law. Whenever any provision of this Agreement requires or permits a Partner to take or omit to take any action, or make or omit to make any decision, unless the context clearly requires otherwise, such provision shall be interpreted to authorize an action taken or omitted, or a decision made or omitted, by the Partner acting alone and in good faith.

11.10 Power of Attorney. By execution of this Agreement, the Operating Partner and each Limited Partner hereby makes, constitutes and appoints the Financial Partner, with full power of substitution and re-substitution in the Financial Partner (in its sole discretion), such Partner's true and lawful attorney-in-fact (the "Attorney") for and in the Operating Partner's or the Limited Partner's name, place and stead and for its use and benefit, to prepare, execute, certify, acknowledge, swear to, file, deliver or record any or all of the following, authorized pursuant to the terms of this Agreement:

(i) the Partnership's certificate of limited partnership or any other agreement, certificate, report, consent, instrument, filing or writing made by or relating to the Partnership that the Attorney deems necessary, desirable, or appropriate for the lawful purpose of (A) organizing the Partnership under the Act, (B) admitting Partners with respect to the Partnership, (C) pursuing or effecting any rights or remedies available under this Agreement or otherwise with respect to a defaulting Partner, (D) qualifying the Partnership to do business in any jurisdiction and (E) complying with any law, agreement or obligation applicable to the Partnership;

(ii) any agreement, certificate, report, consent, instrument, filing or writing made by or relating to the Partnership necessary, desirable or appropriate to effectuate the business purposes of, or the dissolution, termination or liquidation of, the Partnership pursuant to applicable law or the respective terms of this Agreement; and

(iii) any amendment to or modification or restatement of this Agreement, the Partnership's certificate of limited partnership, or any other agreement, certificate, report, consent, instrument, filing or writing of any type described in subsection (i) or (ii) of this Section 11.10, provided that any amendment of or modification to this Agreement shall first have been adopted in accordance with Article 9 of this Agreement.

11.11 Transfer and Other Restrictions. INTERESTS IN THE PARTNERSHIP HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED, AND MAY NOT BE OFFERED OR SOLD UNLESS SUCH INTERESTS HAVE BEEN REGISTERED UNDER SUCH ACT OR UNLESS AN EXEMPTION FROM SUCH REGISTRATION IS AVAILABLE. INTERESTS IN THE PARTNERSHIP ARE SUBJECT TO CERTAIN RESTRICTIONS ON TRANSFER, VOTING AND OTHER TERMS AND CONDITIONS SET FORTH IN (1) ARTICLE 7 AND (2) VARIOUS INVESTMENT AGREEMENTS BETWEEN OR AMONG CERTAIN PARTNERS. COPIES OF SUCH AGREEMENTS MAY BE OBTAINED FROM THE PARTNERSHIP OR THE FINANCIAL PARTNER AT THEIR PRINCIPAL EXECUTIVE OFFICES.

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IN WITNESS WHEREOF, the undersigned have executed this instrument effective as of the Effective Date.

FINANCIAL PARTNER:

a_____

By:_____
Name:_____
Title:_____

OPERATING PARTNER:

a_____

By:_____
Name:_____
Title:_____

LIMITED PARTNERS:

a_____

By:_____
Name:_____
Title:_____

a_____

By:_____
Name:_____
Title:_____

EXHIBIT A

Business Plan

EXHIBIT B

Operating Budget

SCHEDULE I

Partnership Capital Contributions and Sharing Ratios

[TO BE DETERMINED PER SECTION 2.1 OF COMMITMENT AGREEMENT]

Partner and Address	Initial Capital Contributions	Sharing Ratios
Financial Partner:		
Operating partner:		
Limited Partners:		
Total All Partners		

Exhibit B

MANAGEMENT AGREEMENT

THIS MANAGEMENT AGREEMENT (this "Agreement") is executed as of the day of _____ 1998, to be effective conditioned upon and as of the date of the acquisition of the Property by Owner, by and between _____ a _____ (hereinafter called "Owner"), and _____ a _____ (hereinafter called "Property Manager").

W I T N E S S E T H:

WHEREAS, Owner is acquiring that certain real property located in _____ _____ more particularly described on Exhibit A attached hereto and made a part hereof for all purposes, together with all of the improvements located thereon (collectively, the "Property").

WHEREAS, Owner desires to engage Property Manager to develop, lease, manage, maintain and operate the Property and Property Manager desires to accept such engagement, upon the terms and conditions hereinafter set forth.

WHEREAS, Owner has provided to Property Manager, Owner's current Business Plan (hereinafter defined) and the operating and capital budgets approved by Owner as of the date hereof.

NOW, THEREFORE, for and in consideration of the premises and mutual covenants and agreements contained in this Agreement and the compensation to be paid hereunder, Owner and Property Manager hereby agree as follows:

ARTICLE I
ENGAGEMENT OF PROPERTY MANAGER

Owner hereby engages Property Manager and Property Manager hereby accepts such engagement on the terms and conditions hereinafter provided as manager for the Property. Property Manager shall develop, lease, manage, maintain and operate the Property in an efficient and first class manner consistent with the Business Plan and Budget (hereinafter defined) and shall exercise due diligence in all of its endeavors. All of Property Manager's duties under this Agreement shall be subject to funds being made available to Property Manager by Owner for the Property Manager to perform its duties.

ARTICLE II
SERVICES TO BE PERFORMED BY PROPERTY MANAGER

II.1 Expenses. All reasonable obligations or reasonable expenses approved by Owner in writing and incurred by Property Manager in the performance of its duties hereunder in accordance with the provisions hereof shall be at the expense of Owner except as otherwise specifically provided in this Agreement. Without Owner's prior written consent or as authorized in the Business Plan or Budget, Property Manager shall not incur any cost not specifically set forth in the most recently approved Budget.

II.2 Contracts. To the extent necessary to fulfill its obligations under this Agreement, Property Manager shall (i) identify and, with the prior written approval of Owner or as set forth in the Business Plan or Budget, enter into, in Owner's name, contracts with engineers, tradesmen and other independent contractors to perform services necessary or advisable for the development, operation, maintenance or repair of the Property; and (ii) with the prior written approval of Owner or as set forth in the Business Plan or Budget, place orders, in Property Manager's name on behalf of Owner, for such equipment, tools, appliances, materials and supplies as are reasonable and necessary to properly develop, maintain, manage, operate or repair the Property. Except with the prior written consent of Owner, every contract entered into by Property Manager for or in connection with the Property shall include as a condition thereof the right by Owner to terminate, with or without cause, on thirty

(30) days prior written notice, without the payment of a cancellation fee. Owner shall be obligated to pay the cost of any contract or agreement described in this section only if such cost is provided for in the Preliminary Budget or the most recently approved Budget or is otherwise approved by Owner in writing.

II.3 Maintenance, Repair and Sale of Property. Property Manager shall supervise the development and sale of the Property and shall maintain the improvements, appurtenances and grounds of the Property in accordance with the "Management Standard" (as defined in Section 4.1 hereof), including within such maintenance, without limitation thereof, such normal maintenance and repair work as may be necessary or, with Owner's prior written consent, desirable.

II.4 Insurance.

(a) Owner Obligations. Owner shall cause to be placed and kept in force all forms of insurance as Owner deems prudent and reasonable given the nature of the Property. All insurance coverage shall be placed with such companies, in such amounts, and with such beneficial interests appearing therein as Owner deems prudent and reasonable given the nature of the Property. Owner shall procure appropriate clauses in, or endorsements on, all of the policies whereby the insurer names Property Manager as an additional insured, and the insurer waives subrogation and agrees to not terminate any such policy or reduce coverage or amount without giving Owner at least thirty (30) days prior written notice.

(b) Property Manager Obligations. Property Manager shall promptly investigate and make a full and timely written report to Owner and, if Owner requests, to Owner's insurance company as to all accidents, claims for damages relating to the ownership, operation and maintenance of the Property and any damage or destruction to the Property and the estimated cost of repair thereof and shall prepare any and all reports required by Owner and, if Owner requests, by its insurance company in connection therewith. All such reports shall be timely filed with the insurance company as required under the terms of the insurance policy involved. Without obtaining the prior written approval of Owner, which may be granted or withheld in Owner's sole discretion, Property Manager shall not settle any claims against insurance companies arising out of any policies or take any other action in connection with such settlements, including the execution of proofs of loss, the adjustment of losses, signing of receipts and collection of money. The cost of the insurance and the payment of all premiums therefor shall be the sole responsibility of, and at the sole expense of, Owner. Property Manager shall assist Owner in completing any insurance applications, questionnaires, etc. reasonably requested by Owner or Owner's insurance agent or insurance company.

II.5 Operating Budgets; Business Plans. Notwithstanding the delivery of the approved Budget and Business Plan, unless some or all of the obligations of this Section 2.5 are specifically waived in writing by Owner, Property Manager shall prepare the items described herein.

(a) Preliminary Budgets. Within thirty (30) days of the date this Agreement is fully executed, Property Manager shall prepare and deliver to Owner, for Owner's approval, a proposed budget and operating plan for the upcoming one hundred twenty (120) days, which budget and operating plan shall reflect thereon projections of all receipts (if any) and operating costs and expenses, capital expenditures and reserves that Property Manager, in the exercise of good business judgment, believes will be received or necessary to be incurred, as the case may be, to develop and maintain the Property during such one hundred twenty (120) days. Within

ninety (90) days of the date this Agreement is fully executed, Property Manager shall further prepare and deliver to Owner an additional proposed budget and operating plan (such proposed budget and operating plan, together with the foregoing budget and operating plan, the "Preliminary Budget" and the "Preliminary Plan", respectively), for the upcoming calendar year, which budget and operating plan shall reflect thereon projections of all receipts (if any) and operating costs and expenses, capital expenditures and reserves that Property Manager, in the exercise of good business judgment, believes will be received or necessary to be incurred, as the case may be, to develop and maintain the Property during such calendar year.

(b) Annual Budgets. Thereafter, on or prior to October 31st of each calendar year during the Term (as defined in Section 4.4) hereof, beginning on the first October 31st, after the date hereof, Property Manager shall submit to Owner, for Owner's approval, proposed budgets and operating plans for the Property on an annual basis for the upcoming calendar year, which proposed budgets and operating plans shall reflect thereon projections of all receipts (if any) and operating costs and expenses, capital expenditures and reserves that Property Manager, in the exercise of good business judgment, believes will be received or necessary to be incurred, as the case may be, to develop and maintain the Property during such calendar year. Such proposed budgets and operating plans (including the Preliminary Budget and the Preliminary Plan) shall be submitted by Property Manager solely as good faith estimates, without warranty of their accuracy or attainability; provided, however, that, except as otherwise expressly provided in this Agreement, Property Manager shall not be reimbursed by Owner for, and Property Manager hereby expressly indemnifies Owner against, any loss, expense or claim in connection with any unauthorized expenditure or liability incurred by any action taken by Property Manager. Property Manager shall use its best efforts to manage the development of the Property in a manner consistent with, and subject to, both the total cost limitations and categories in the most recently approved Budget.

(c) Contents. Without limiting the foregoing, each Budget and Business Plan (including the Preliminary Budget and the Preliminary Plan) shall include between them: (i) a projected income statement for the Property, (ii) a projected balance sheet for the Property, (iii) a schedule of projected operations and cash flow, (iv) a reasonable estimate and projected budget of gross receipts and operating expenses, itemized in a manner acceptable to Owner, (v) a projected budget for capital expenditures and replacements, (vi) an identification of staffing to be employed, (vii) a separate estimate of the Property Management Fee (as defined in Section 31.), (viii) a narrative description of the program for the development and marketing of the Property, and (ix) any and all other matters reasonably requested by Owner.

(d) Owner Approval. Owner shall, within thirty (30) days after receipt of a proposed Budget and Business Plan (including the Preliminary Budget and the Preliminary Plan), approve or disapprove such Budget and Business Plan in its sole discretion. As used herein, the terms "Business Plan" and "Budget" shall refer to the currently approved Budget and Business Plan approved by Owner as amended and/or modified from time to time. Owner shall provide Manager written notice of its approval or disapproval; provided, that in the event Owner fails to do so, the Budget or Business Plan, as the case may be, from the previous year shall control until a new budget or business plan is approved. Within fifteen (15) days after Owner submits any objection to the proposed budget or business plan, Manager will submit a revised budget or business plan to Owner, as the case may be. If Owner does not approve such revised budget or business plan within fifteen (15) days of its

submission to Owner, the budget or business plan as the case may be, from the previous year shall control until a new budget or business plan is approved.

II.6 Property Account and Owner Account.

(a) Owner Account. Property Manager shall establish and maintain in a banking or other financial institution approved by Owner or set forth in the Business Plan from time to time throughout the term of this Agreement, a separate bank or similar account in the name of Owner for the deposit of moneys of Owner received, if any, with respect to the Property (the "Owner Account"). Property Manager shall also establish such other special bank or similar accounts as may be approved by Owner. All revenue from the Property shall be promptly deposited in the Owner Account.

(b) Property Account. Operating expenses of the Property shall be paid by the Property Manager from an account established in a financial institution approved by Owner to process funds as described in Section 2.7 (the "Property Account")

II.7 Disbursements by Owner to Property Manager.

(a) Monthly Payments. On or before the twentieth (20th) day of each calendar month, Property Manager shall deliver to Owner a written request for disbursement, setting forth, in reasonable detail, the costs and expenses reasonably estimated to be paid by Property Manager for the upcoming calendar month, together with any other working capital needs of the Property for the upcoming calendar month, in each case, in accordance with the Budget (the "Required Monthly Funds"). Property Manager shall also submit reasonable substantiation as requested by Owner for all requested disbursements. In the event that any requested disbursement is not consistent with, or in compliance with, the Budget, Property Manager shall set forth such requested disbursements in a separate report and shall set forth a brief explanation for the reason for such discrepancy. On or before the first day of the month for which the particular request for the Required Monthly Funds is made, Owner shall transfer, via wire transfer, from the Owner Account to the Property Account designated by Property Manager the Required Monthly Funds approved by Owner.

(b) Emergency Withdrawals. Property Manager shall only be entitled to make withdrawals from the Property Account in accordance with the Budget or the Business Plan or in connection with a bona fide emergency due to casualty or act of God under circumstances in which it would be unreasonable to seek to obtain Owner's approval, in which case Property Manager shall be entitled to exceed, by a reasonable amount, the amounts set forth in the Budget in order to address such bona fide emergency situation; provided that as soon as practicable after such emergency, Property Manager shall fully inform Owner of the circumstances surrounding such situation and obtain, on a "going-forward" basis only, Owner's approval with respect to Property Manager's handling of similar emergency events at the Property in the future. It is understood that any action taken by Property Manager under this Section 2.7(b) in connection with any particular emergency event shall be considered as being within Property Manager's scope of authority under this Agreement but shall not create any precedent or duty on the part of Property Manager or Owner to take any action in connection with any future event. Nothing contained in this Section 2.7(b) or elsewhere in this Agreement is intended to provide any benefit to any third parties who are not parties hereto or successors or permitted assigns of parties hereto or impose upon Property Manager or Owner any duty or obligation to any third parties who are not parties hereto or successors or permitted

assigns of parties hereto, nor shall it have the effect of giving, any enforceable rights to any third parties who are not parties hereto or successors or permitted assigns of parties hereto, whether such claims are asserted as third party beneficiary rights or otherwise. The Owner and Property Manager hereby acknowledge and agree that, if the Owner fails to deposit funds in the Property Account in an amount sufficient to fund the expenses authorized in the Budget, Property Manager shall not be required to incur any out of pocket costs in order to perform Property Manager's obligations under this Agreement.

II.8 Costs Not Reimbursed to Property Manager. Unless otherwise provided herein, Owner shall not be obligated to reimburse Property Manager for the payment by Property Manager of (a) any expense for office equipment or office supplies of Property Manager other than those used on the Property and approved in writing by Owner; (b) any overhead expenses of Property Manager incurred in its general offices; (c) unless otherwise consented to by Owner in writing, any salaries, wages and expenses for any personnel, including, without limitation, personnel spending all or a portion of their working hours at or providing services to the Property specifically performing Property Manager's duties hereunder; (d) the cost of fidelity insurance; (e) any accounting costs or overhead costs incurred in connection with the preparation and delivery of the statements and reports required hereunder; or (f) any travel costs incurred by Property Manager not specifically provided for in the Budget.

II.9 Records; Reporting.

(a) Records. All statements, receipts, invoices, checks, leases, contracts, worksheets, financial statements, books and records, and all other instruments and documents relating to or arising from the development, operation or management of the Property shall be the property of Owner; provided, that throughout the term of this Agreement, all of such items shall be maintained by Property Manager in a manner consistent with the terms of this Agreement and with books and records customarily maintained by managing agents of properties similar in location, size and revenue to the Property. Owner and Property Manager shall have the right to inspect and to copy all such items, at such party's expense, at all reasonable times, and from time to time, during the term of this Agreement. Upon the termination of this Agreement, all of such books, records and all other information relating to the Property promptly shall be delivered to Owner; provided, however, that at Property Manager's sole expense, Property Manager or its representatives shall have the right, for a reasonable period of time not to exceed three (3) years following such termination, to inspect such books, records and other information for data that directly relates to the period during which Property Manager managed the Property and to make copies thereof, at the offices of Owner upon reasonable advance notice to Owner.

(b) Statements. Property Manager shall prepare and deliver to Owner on a monthly and on a calendar quarterly basis, Property Manager's written estimates of the amounts, if any, by which any categories of the Preliminary Budget or the Budget must be adjusted to adequately fund the development, operation and maintenance of the Property for the then current month or quarter as the case may be, although Owner shall be under no obligation to change the Preliminary Budget or the Budget. Such reports shall include the following information: (i) a statement of operations on the Property during such month or quarter as the case may be, and the cost thereof, (ii) a statement of year-to-date operations on the Property, and the cost thereof, (iii) a statement of the actual cost of operations on the Property during such month or quarter as the case may be compared to the Preliminary Budget or the Budget which identifies any variance between such costs and the Preliminary Budget or the Budget, and (iv) a description and

explanation of such variances. Property Manager also shall furnish Owner, within thirty (30) days after Owner's request, such further information covering the operation and maintenance of the Property as Owner may reasonably require, including, but not limited to, the following: (i) income statement (accrual basis for taxes and insurance), month and year-to-date versus Budget; (ii) variance report (narrative form, month and year-to-date), (iii) balance sheet, (iv) general ledger, (v) rent roll (including security deposit listing), (vi) accounts receivable aging report, (vii) bank reconciliation for each account, (viii) calculation of Property Management Fee, (ix) schedule of reserve and escrow accounts, (x) schedule of capital expenditures, (xi) a re-forecast report, on a quarterly basis, of current full year operations compared to the Budget with explanations for all material variances, (xii) a marketing qualitative summary of property operations for the preceding month including comments on revenues, expenses, marketing, leases, competition, legal and other issues affecting the Property, and (xiii) any and all other reports reasonably requested by Owner.

(c) Annual Accounting Report. Property Manager agrees (i) to deliver to owner, within twenty (20) days after the end of each fiscal year, an annual accounting report (including balance sheet, income statement and other financial statements), showing the results of gross receipts, gross operating expenses, net operating income, net cash flow and the Property Management Fee which would be payable if the Agreement were terminated as of the end of such fiscal year and any other information necessary to make the computations required hereby or which may be requested by Owner, all for such fiscal year and (ii) to cooperate fully with Owner, at no additional expense to Property Manager, but without limiting Property Manager's obligations under Section 2.9(e), in supplying all of the information and documentation necessary for a nationally recognized firm of certified public accountants selected by Owner (the "Auditor") to prepare and deliver to Owner an audit of the annual accounting report provided by Property Manager to Owner pursuant to this Section 2.9(c) within forty-five (45) days after the end of each fiscal year.

(d) Additional Fiscal Reports. Property Manager shall, upon the request of Owner, prepare for Owner or assist Owner in the preparation of such additional financial reports with respect to the Owner or the Property as Owner may reasonably request or may be required in the preparation of the audited annual accounting to be prepared pursuant to this Section 2.9. Property Manager acknowledges and agrees that the Property Management Fee to be paid under this Agreement includes compensation to Property Manager for the preparation of papers and schedules reasonably necessary for the Auditor to conduct its review of the Property's books and records. To the extent such papers and schedules are not properly prepared, Property Manager agrees to reimburse Owner for the reasonable additional cost and expense incurred by Owner for the Auditor to prepare such papers or schedules.

(e) No Liability for Returns Required by Law. Property Manager shall be responsible for preparing and filing any forms, reports or returns (except Owner's tax returns) that may be required by law relating to the Property. Property Manager shall also be responsible for any forms, reports or returns that may be required by law relating to any of Property Manager's employees.

II.10 Compliance with Legal Requirements. Property Manager shall take such action as may be necessary to comply with any and all orders or requirements affecting the Property by any federal, state, county or municipal authority having jurisdiction thereover. Property Manager, however, shall not take any such action as long as Owner is contesting, or has affirmed Owner's intention to contest and institutes proceedings contesting, any

such order or requirement, except that if failure to comply promptly with any such order or requirement would or might expose Property Manager to criminal liability, Property Manager shall comply with same. Property Manager shall promptly notify Owner in writing of all such orders and notices or requirements. Nothing contained herein shall require Property Manager to employ counsel to represent Owner in any such proceeding or suit.

II.11 Taxes. Property Manager shall timely render the Property for taxation, and obtain and verify bills for real estate, personal property, and all other taxes and assessments, if any, against the Property and promptly pay such tax bills and any other Impositions (as defined below), and assist and cooperate with Owner in connection with all such taxes and assessments in all ways reasonably requested by Owner including applications or petitions of Owner for reduction of taxes or assessments. Owner shall have the option but not obligation to employ a third party consultant to accomplish the foregoing, in which event, Property Manager shall assist and cooperate with such consultant. As used herein, "Impositions" shall mean all taxes, assessments, special assessments, rents and charges for any easement or agreement maintained as part of or for the benefit of the Property, use and occupancy taxes and charges, water and sewer for public and private utilities, excises, levies, license and permit fees and other governmental charges, general and special, ordinary and extraordinary, unforeseen and foreseen, of any kind and nature whatsoever which at any time prior to or during the term of this Agreement may be assessed, levied, confirmed, imposed upon or grow or become due and payable out of or in respect of, or become a lien on (i) the Property or any part thereof or any appurtenances thereto, or upon any personal property located, or used in connection with, the Property, (ii) the rent, income or other payments (if any) received by or for the account of Owner or anyone claiming by, through or under Owner, (iii) any use or occupation of the Property, (iv) such franchises, licenses and permits as may be appurtenant to the use of the Property and (v) any document to which Owner is a party transferring an interest or estate in the Property.

ARTICLE III
FEES TO PROPERTY MANAGER

[The economic terms shall be agreed among the parties]

In consideration for the performance of Property Manager's duties and responsibilities under this Agreement, in exchange for its services provided to Owner and the Property, Owner shall pay to Property Manager a management fee to be computed as follows: Property Manager shall receive an annual fee from Owner (the "Management Fee") equal to one percent (1%) of the Acquisition and Development Costs (as defined hereinbelow) computed as follows:

(i) the Management Fee shall commence on the first day of the month following the initial acquisition of the Property;

(ii) the monthly balance subject to the Management Fee shall be the arithmetic average of the Acquisition and Development Costs of the Property owned by Owner on the first day of the month and on the last day of the month; and

(iii) the Management Fee shall be payable monthly in arrears and shall be equal to 0.000833 multiplied by the balance computed in (ii) above.

As used herein, "Acquisition and Development Costs" means the sum of (a) purchase price, whether cash or credit, paid, or for which Owner is obligated to pay (if on credit), for the Property, together with all closing costs paid by Owner, including title insurance, recordation charges, registration and transfer taxes, if any, and similar expenses, and to the extent reflected on the closing statement executed by Owner in connection with the

acquisition of the Property, all fees and expenses paid or incurred by or on behalf of Owner in connection with the acquisition of the Property, including legal, engineering and consulting fees, any real estate commissions or brokerage fees paid by Owner, or on behalf of Owner, to anyone in connection with such acquisition (the "Acquisition Costs") and (b) all costs and expenses incurred by Owner in connection with development and marketing of the Property, including, without limitation, engineering, legal, land planning and related expenses (the "Development Costs").

ARTICLE IV
RELATIONSHIP OF PROPERTY MANAGER TO OWNER

IV.1 Use and Maintenance of Premises. Property Manager shall employ its best efforts to develop, operate and maintain the Property in a manner (referred to herein as the "Management Standard") consistent with (i) first class standards (consistent with the Business Plan); (ii) prudent business and management practices applicable to the development, operation, management and maintenance of the Property; and (iii) the requirements of any deeds of trust, certificates of occupancy, permits, licenses, consents or other recorded or unrecorded agreements now or hereafter affecting the Property or as required by the limited partnership agreement (collectively referred to herein as the "Key Documents"). Property Manager shall use all contacts, discount programs and cost-savings measures at its disposal to obtain services, products and tax and insurance rates for the Property at the lowest cost, without sacrificing the quality of such services or products. Property Manager shall perform such other acts and deeds as are reasonable, necessary and proper in the discharge of its duties under this Agreement. Property Manager may with prior written approval of Owner obtain goods or services for the Property from direct or indirect affiliates of Property Manager, its officers, directors, shareholders or employees, but only if such goods and services are of at least equal quality and of no higher prices than comparable goods and services obtainable from unaffiliated parties and such goods and services are otherwise competitive with comparable goods and services.

IV.2 Sale or Refinancing of the Property. Upon the express request of Owner but not otherwise, Property Manager shall assist and cooperate in any attempt(s) by Owner to sell, finance or refinance all or any portion of the Property. Such assistance and cooperation by Property Manager and Property Manager's personnel shall not be deemed to create a broker-principal or similar relationship unless Owner and Property Manager enter into a separate written agreement engaging Property Manager as broker with respect to all or any portion of the Property. Such assistance and cooperation shall include, without limitation, answering prospective purchasers' or lenders' questions about the Property or any portion thereof, preparing rent rolls, notifying tenants about the sale of the Property and obtaining estoppel certificates and other documents from all tenants of the Property in the form required by the prospective purchaser or lender. Property Manager shall also provide, promptly upon request by Owner, (a) an estoppel certificate executed by Property Manager certifying that no uncured default by the Owner exists under this Agreement or, if such a default(s) exists, stating the nature thereof, (b) a certificate in favor of Owner and any lender executed by Property Manager confirming, to the best of Property Manager's actual knowledge, that any representations and warranties made (or to be made) by Owner with respect to the Property, or the condition or operation thereof, in any loan documents executed (or to be executed) by Owner in connection with any sale, financing or refinancing of the Property, are substantially true, correct and complete, or, if not substantially true, correct or complete, stating with particularity why such representations and warranties are not substantially true, correct or complete, and (c) a subordination and attornment agreement executed by Property Manager in accordance with the provisions of Section 5.9 of this Agreement.

IV.3 Approvals and Consents to Property Manager. Owner and Property Manager hereby acknowledge and agree that_____ is authorized by Owner to grant approvals and consents required under this Agreement to Property Manager, and otherwise instruct Property Manager with respect to Property Manager's obligations and performance under this Agreement.

IV.4 Term. This Agreement shall commence on the date hereof and continue until such time as it is terminated as provided herein (a) for Cause (as herein defined) or (b) upon the mutual agreement of the parties. The entire term of this Agreement is sometimes herein referred to as the "Term".

IV.5 Termination by Owner. Owner, at its option, may terminate this Agreement for "Cause" at any time upon giving written notice thereof. The term Cause shall include (a) the failure of Property Manager to cure any fraud, misrepresentation, misappropriation of funds, furnishing any statement, report, notice, writing or schedule to Owner that Property Manager knows, or reasonably should have known, is untrue or misleading in any material respect on the date as of which the facts set forth therein are stated or certified or the date such statement, report, notice, writing or schedule is furnished to Owner, and such failure continues for a period of ten (10) days after written notice thereof by Owner to Property Manager, (b) the failure of Property Manager to comply with any term or condition of this Agreement (except for breach of the Management Standard) and such failure continues for a period of thirty (30) days after written notice thereof by Owner to Property Manager, provided that if such default is not reasonably susceptible of cure within thirty (30) days, then such reasonable time so long as Property Manager is diligently prosecuting the cure of the default, but in no event longer than ninety (90) days, (c) the bankruptcy or insolvency of, the assignment for the benefit of creditors by, or the appointment of a receiver for any of the property of, Property Manager, (d) the sale of all or part of the Property; provided that in the case of a partial sale, termination will only apply to those portions of the Property sold, (e) the failure of Property Manager to cure an intentional or grossly negligent or illegal act committed by Property Manager against Owner and such failure continues for a period of ten (10) days after written notice thereof by Owner to Property Manager, (f) the failure of Property Manager to cure Property Manager's willful and/or reckless misconduct that causes damage to Owner and such failure continues for a period of ten (10) days after written notice thereof by Owner to Property Manager, or (g) upon thirty (30) days written notice from Owner to Property Manager in the event Property Manager fails to perform its duties consistent with the Management Standard as determined by the management committee of Owner.

IV.6 Termination by Property Manager. Property Manager, at its option, may terminate this Agreement for the failure of Owner to comply with any term or condition of this Agreement and such failure continues for a period of thirty (30) days after written notice thereof by Owner to Property Manager, provided that if such default is not reasonably susceptible of cure within thirty (30) days, then such reasonable time so long as Owner is diligently prosecuting the cure of the default, but in no event longer than ninety (90) days.

IV.7 Obligations Upon Termination.

(a) Upon termination of this Agreement, each party shall continue to be fully liable for their respective obligations which have accrued up to and including the termination date and shall promptly pay to the other all amounts due to the other party under the terms of this Agreement. Such payment shall be made as soon after the effective date of termination as such amounts are determinable. Upon such payment, neither party shall have any further claim or right against the other, except as expressly provided herein.

(b) In the event of termination of this Agreement, upon the effective date of such termination, Property Manager shall (i) surrender and deliver to Owner all income of the Property, if any, and other monies of Owner then held by Property Manager and/or in any bank account (including, without limitation, the Owner Account and the Property Account) in excess of the reimbursements due and payable to Property Manager up to and including the effective date of such termination, (ii) deliver to Owner as received by Property Manager any monies or other property due Owner under this Agreement but received after such termination, and (iii) deliver to Owner everything then held by Property Manager pertaining to the Property, including, without limitation copies of all books, records, keys and all other materials, property and supplies pertaining to the Property and/or this Agreement.

IV.8 Negation of Partnership, Joint Venture or Lease. Nothing in this Agreement shall constitute, or be construed to be or to create, a partnership, joint venture or lease between Owner and Property Manager with respect to the Property. In the performance of this Agreement, Property Manager shall act solely as an independent contractor. Neither this Agreement nor any agreements, instruments, documents or transactions contemplated hereby shall in any respect be interpreted, deemed or construed as making either party a partner, joint venturer, principal or agent with, or with respect to, the other party or as creating any similar relationship or entity, and each party hereto agrees that it will not make any contrary assertion, contention, claim or counterclaim in any action, suit or other legal proceedings involving Property Manager and Owner.

IV.9 Indemnification. Property Manager shall be liable for and shall indemnify and hold harmless Owner (and each partner, venturer, employee, agent, shareholder, director and officer of Owner) from any loss, damage, liability, cost or expense (including reasonable attorneys' fees) arising out of (i) any actions of Property Manager not within the scope of Property Manager's duties hereunder, (ii) any breach by Property Manager of Property Manager's obligations hereunder or (iii) the gross negligence or willful misconduct of Property Manager. Owner shall indemnify and hold harmless Property Manager (and each employee, agent, director, shareholder are officer of Property Manager) from any loss, damage, liability, cost or expense (including reasonable attorneys' fees) arising out of (x) a breach by Owner of Owner's obligations hereunder, (y) Owner's gross negligence or willful misconduct or (z) actions taken by Property Manager within the scope of Property Manager's responsibilities under this Agreement.

IV.10 Owner's Limited Liability. No general or limited partner in or of Owner, whether direct or indirect, or any disclosed or undisclosed officers, shareholders, principals, directors, employees, partners, servants or agents of Owner or any of the foregoing or any investment advisor of Owner (including any assignee or successor of Owner) or other holder of any equity interest in Owner, shall be personally liable for the performance of Owner's obligations under this Agreement. The liability of Owner (including any assignee or successor of Owner) for Owner's obligations hereunder shall be limited to the equity interest of Owner in the Property.

IV.11 Property Manager's Limited Liability. No general or limited partner in or of Property Manager, whether direct or indirect, or any disclosed or undisclosed officers, shareholders, principals, directors, employees, partners, servants or agents of Property Manager or any of the foregoing or any investment advisor of Property Manager (including any assignee or successor of Property Manager) or other holder of any equity interest in Property Manager, shall be personally liable for the performance of Property Manager's obligations under this Agreement.

ARTICLE V
MISCELLANEOUS

V.1 No Assignment by Property Manager Etc. Without the prior written consent of Owner, which consent may be granted or withheld in Owner's sole discretion, Property Manager shall not have the right to assign, transfer or convey any of Property Manager's right, title or interest hereunder, nor shall Property Manager have the right to delegate any of the obligations or duties required to be kept or performed by Property Manager hereunder.

V.2 Notices. All notices, demands, consents, approvals and requests given by either party to the other hereunder shall be in writing and sent via the U.S. Postal Service by registered or certified mail, postage prepaid or via a nationally recognized overnight delivery service (e.g. Federal Express) and addressed to the appropriate party at the respective addresses shown below. All such notices shall be deemed given on the earlier of actual receipt or refusal of receipt by the addressee. The respective addresses and additional notice parties are as follows:

If to Owner: _____ Partnership
c/o Olympus Real Estate Corporation
200 Crescent Court, Suite 1650
Dallas, Texas 75201
Attention: Hal R. Hall

and to: Robert C. Feldman
Weil, Gotshal & Manges, LLP
100 Crescent Court, Suite 1300
Dallas, Texas 75201

If to Property Manager:_____
98 San Jacinto Blvd., Suite 220
Austin, Texas 78701
Attention: Mr. William H. Armstrong, III

With a copy to: Kenneth N. Jones
Armburst, Brown & Davis, L.L.P.
100 Congress, Suite 1350
Austin, Texas 78701

Any party may at any time change its respective address by sending written notice to the other parties of the change in the manner hereinabove prescribed.

V.3 GOVERNING LAW. THIS AGREEMENT IS BEING EXECUTED AND DELIVERED AND IS INTENDED TO BE PERFORMED IN THE STATE OF TEXAS, AND THE TERMS AND PROVISIONS HEREOF SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS. THIS AGREEMENT IS PERFORMABLE IN, AND THE EXCLUSIVE VENUE FOR ANY ACTION BROUGHT WITH RESPECT HERETO SHALL LIE IN, DALLAS COUNTY, TEXAS.

V.4 Not a Third Party Beneficiary Contract. Neither this Agreement nor any part hereof nor any service, relationship or other matter alluded to herein shall inure to the benefit of any third party (specifically including any lender, tenants or contractors), to any trustee in bankruptcy, to any assignee for the benefit of creditors, to any receiver by reason of insolvency, to any other fiduciary or officer representing a bankruptcy or insolvent estate of either party or to the creditors or claimants of such an estate. In addition, this Agreement shall terminate and be of no further force or effect upon the filing of any bankruptcy petition by or against Property Manager.

V.5 Validity. If any term or provision of this Agreement or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Agreement, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term and provision of this Agreement shall be valid and be enforced to the fullest extent permitted by law.

V.6 Entire Agreement. This Agreement contains the entire

agreement between the parties hereto with respect to the matters herein contained and any agreement hereafter made shall be ineffective to effect any change or modification, in whole or in part, unless such agreement is in writing and signed by the party against whom enforcement of the change or modification is sought. This Agreement shall bind, and inure to the benefit of, the parties hereto and their respective successors, legal representatives and assigns.

V.7 Attorneys' Fees. If either Owner or Property Manager employs an attorney to enforce or defend its rights hereunder, the prevailing party shall be entitled to recover its reasonable attorneys' fees, costs and expenses incurred in connection with such enforcement or defense.

V.8 INDEMNIFICATION PROVISIONS. THIS AGREEMENT CONTAINS INDEMNIFICATION PROVISIONS SPECIFICALLY DESCRIBED IN SECTIONS 2.5 AND 4.7 HEREOF.

V.9 Subordination. This Agreement and any extension hereof shall be subordinate to any mortgage or similar security instrument now or hereafter affecting the Property, and all renewals, modifications, consolidations, replacements and extensions thereof (a "Mortgage"). Property Manager further agrees to attorn to the holder of any Mortgage or similar security instrument affecting the Property, and any successor or assignee thereof, upon Owner's being dispossessed by such holder of Owner's interest in all or any portion of the Property. The provisions of this Section 5.9 shall be self-operative and no further instrument of subordination or attornment shall be required. Property Manager shall execute promptly any certificate or other document that Owner or any mortgagee or other security holder may request as to such subordination and/or attornment, which certificate or document may include such customary and normal provisions as Owner may determine in its sole discretion. In the event that Property Manager fails to execute and deliver such certificate or document on or before five (5) business days after written notice to Property Manager by Owner, then without any further notice and opportunity to cure, such failure by Property Manager shall be deemed to be an event for Cause hereunder.

V.10 Representations, Warranties and Covenants of Property Manager. In order to induce Owner to enter into this Agreement, Property Manager does hereby make the following representations, warranties and covenants:

(a) Property Manager represents and warrants to Owner that Property Manager is a , is duly and legally existing under the laws of the state of its and is duly qualified to do business in the State of Texas.

(b) Property Manager represents and warrants to Owner that Property Manager has full power and authority to enter into this Agreement and to carry out the transactions herein contemplated, and that the undersigned officers of Property Manager have all necessary authority to execute and deliver this Agreement on behalf of Property Manager.

(c) Property Manager represents and warrants to Owner that this Agreement has been duly executed and delivered by Property Manager and constitutes the legal, valid and binding obligations of Property Manager enforceable in accordance with their terms, subject to laws applicable generally to creditor's rights.

(d) Property Manager shall deliver to Owner, upon the effective date hereof (i) a good standing certificate from the State of Texas, and (ii) an incumbency certificate and _____resolutions of Property Manager authorizing the execution and delivery by Property Manager of this Agreement, certified by an authorized officer of Property Manager as being true, correct and complete.

(e) There is no claim, litigation, proceedings or governmental investigation pending, or as far as is known to Property Manager, threatened, against Property Manager or relating to the Property or the transactions contemplated by this Agreement which does, or may reasonably be expected to, affect the ability of Property Manager to enter into this Agreement or to carry out its obligations hereunder, and, to Property Manager's actual knowledge, there is no basis for any such claim, litigation, proceedings or governmental investigation.

(f) Neither the consummation of the actions contemplated by this Agreement on the part of Property Manager to be performed, nor the fulfillment of the terms, conditions and provisions of this Agreement, conflicts with or will result in the breach of any of the terms, conditions or provisions of, or constitute a default under, any agreement, indenture, instrument or undertaking to which Property Manager is a party or by which it is bound.

(g) Property Manager has and will continue to have during the term of this Agreement qualified personnel to implement Property Manager's obligations hereunder.

V.11 Publicity and Public Relations. Owner shall have the exclusive right to control, manage and monitor all publicity and public relations with respect to the Property or Owner's ownership thereof.

[THE REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK]

OWNER:

_____,
a_____

By:_____
Name:_____
Title:_____

PROPERTY MANAGER:

_____,
a_____

By:_____
Name:_____
Title:_____

EXHIBIT A

TO MANAGEMENT AGREEMENT

(ATTACH PROPERTY DESCRIPTION)

Exhibit 99.2

SECURITIES PURCHASE AGREEMENT

This SECURITIES PURCHASE AGREEMENT (this "Agreement") is made and entered into as of May 22, 1998, by and between Oly/Stratus Equities, L.P., a Texas limited partnership (the "Purchaser"), and Stratus Properties Inc. (formerly known as FM Properties Inc.), a Delaware corporation (the "Company").

RECITALS:

A. The Company presently conducts the business of developing and marketing certain real property (the "Business");

B. The Company requires additional capital in order to expand the Business; and

C. The Purchaser desires to provide additional capital to the Company for such purpose in accordance with the terms and subject to the conditions set forth in this Agreement.

NOW, THEREFORE, the parties hereto agree as follows:

ARTICLE I. ISSUANCE OF SECURITIES

I.1. Authorization. The Company has duly authorized the issuance and sale of 1,712,328 shares of its Series B Participating Preferred Stock, par value $0.01 per share (the "Securities"), having an aggregate initial liquidation preference of $9,999,995.52 plus accrued and unpaid dividends thereon, if any, and other rights as specified in the Certificate of Designations of the Powers, Preferences and Relative Participating, Optional and Other Special Rights of Series B Participating Preferred Stock and Qualifications, Limitations and Restrictions Thereof, substantially in the form of Exhibit A attached hereto (the "Certificate of Designations").

I.2. Purchase and Sale of the Securities; the Closing. Subject to the terms and conditions hereof, the Company hereby agrees to sell to the Purchaser, and the Purchaser hereby agrees to purchase from the Company, the Securities for an aggregate purchase price of $9,999,995.52. The closing of such sale and purchase shall be held at 10:00 A.M., Dallas, Texas time, on May 22, 1998, or on such other day and time as may be agreed by the Company and the Purchaser (the "Closing Date"), at the offices of Weil, Gotshal & Manges LLP, 100 Crescent Court, Suite 1300, Dallas, Texas 75201.

On the Closing Date, the Company will deliver to the Purchaser one or more certificates representing the Securities, registered in the name of the Purchaser or in the names of one or more nominees of the Purchaser and in any denomination as the Purchaser may specify by timely notice to the Company (or, in the absence of such notice, one certificate representing 1,712,328 shares registered in the name of the Purchaser), against delivery to the Company of immediately available funds in the amount of the purchase price of such Securities by wire transfer to an account or accounts designated in writing by the Company prior to the Closing Date.

ARTICLE II. REPRESENTATIONS AND WARRANTIES

II.1. Representations and Warranties of the Company. The Company makes the following representations and warranties to the Purchaser, each of which is true and correct as of the date hereof and shall be true and correct as of the Closing Date and shall be unaffected by any investigation heretofore or hereafter made by the Purchaser.

II.1.1. Organization and Good Standing. The Company and each of the Subsidiaries (as hereinafter defined) is duly organized, validly existing and in good standing under the laws

of the state of its organization. The Company and each of the Subsidiaries has the requisite power and authority to own, lease or otherwise hold the assets owned, leased or otherwise held by it and to carry on its business as presently conducted by it. The Company and each of the Subsidiaries is in good standing and duly qualified to conduct business as a foreign corporation, partnership or limited liability company, as applicable, in every state of the United States in which its ownership or lease of property or conduct of business makes such qualification necessary.

II.1.2. Authorization of Agreement; Binding Obligation. The Company has the requisite corporate power to execute and to deliver this Agreement and the other Transaction Documents and to perform the transactions contemplated hereby and thereby to be performed by it. The execution and delivery by the Company of this Agreement and the other Transaction Documents and the performance by it of the transactions contemplated hereby and thereby to be performed by it have been duly authorized by all necessary corporate action on the part of the Company. This Agreement and the other Transaction Documents have been duly executed and delivered by duly authorized officers of the Company and constitute valid and binding obligations of the Company enforceable against it in accordance with terms hereof or thereof, except as may be limited by bankruptcy, insolvency, reorganization, moratorium or other similar laws affecting the enforcement of creditors' rights in general and subject to general principles of equity (regardless of whether such enforceability is considered in a proceeding in equity or at law).

II.1.3. Subsidiaries and Equity Investments. (a) Schedule 2.1.3 sets forth (i) the name of each entity of which the Company directly or indirectly owns shares of capital stock or other equity interests having in the aggregate 50% or more of the total voting power of the issued and outstanding shares of capital stock or other equity interests (individually, a "Subsidiary" and collectively, the "Subsidiaries"); (ii) the name of each corporation, partnership, limited liability company, joint venture or other entity (other than the Subsidiaries) in which the Company or any Subsidiary has, or pursuant to any agreement has the right to acquire at any time by any means, an equity interest or investment; (iii) in the case of each of the Subsidiaries, (A) the jurisdiction of organization and (B) the capitalization thereof and the percentage of each class of voting stock or other equity interests owned by the Company or by any of the Subsidiaries; and (iv) in the case of each of such entities listed pursuant to clause (ii) hereof, the equivalent of the information provided pursuant to the preceding clause (iii) with regard to the Subsidiaries.

(b) All of the outstanding shares of capital stock or other equity interests of each of the Subsidiaries have been duly authorized and validly issued, are fully paid and non-assessable, have not been issued in violation of any preemptive, maintenance or similar rights. The shares of capital stock or other equity interests owned by the Company or any of the Subsidiaries as set forth on Schedule 2.1.3 are owned of record and beneficially by the Company or such Subsidiary, free and clear of any liens, claims, charges, security interests or other legal or equitable encumbrances, limitations or restrictions, except for security interests granted to IMC Global Inc. ("IMC") pursuant to the Sale and Guaranty Agreement among the Company, FM Properties Operating Co., Circle C Land Corp., Freeport McMoRan Inc. and IMC.

(c) There are no options, warrants, calls, subscriptions, conversion or other rights, agreements or commitments obligating any Subsidiary to issue any additional shares of capital stock or other equity interests or any other securities convertible into, exchangeable for or evidencing the right to subscribe for any shares of such capital stock or other equity interests.

II.1.4. No Restrictions Against Issuance of Securities; Required Consents. The execution and delivery of

this Agreement and the other Transaction Documents by the Company does not, and the performance by the Company of the transactions contemplated hereby or thereby to be performed by it will not (a) conflict with the certificate of incorporation or bylaws, partnership agreement, operating agreement, or other organizational documents, as applicable, of the Company or any Subsidiary, (b) conflict with, or result in any violation of, or constitute a default (with or without notice or lapse of time, or both) under, or give rise to a right of termination, cancellation or acceleration of any material obligation or to loss of a benefit under, any material contract, permit, order, judgment or decree to which the Company or any Subsidiary is a party or by which any of their properties are bound, (c) constitute a violation of any law or regulation applicable to the Company or any Subsidiary, or (d) result in the creation of any lien, charge or encumbrance upon any of the Company's or the Subsidiaries' assets except, in the case of (a) through (d) hereof, for those that, individually or in the aggregate, could not reasonably be expected to have a material adverse effect (i) on the business, assets, financial condition, prospects, financial projections, or results of operations of the Company and its Subsidiaries taken as a whole or (ii) on the ability of the Company to perform on a timely basis any material obligation under this Agreement or the other Transaction Documents or to consummate the transactions contemplated hereby or thereby (each, a "Material Adverse Effect"). Except as set forth on Schedule 2.1.4, no consent, approval, order or authorization of, or registration, declaration or filing with, any nation or government, any state or other political subdivision thereof or an entity exercising executive, legislative, judicial, regulatory or administrative function of or pertaining to government (each a "Governmental Entity") is required to be obtained or made by or with respect to the Company in connection with the execution and delivery of this Agreement or any of the other Transaction Documents by the Company or the performance by the Company of the transactions contemplated hereby or thereby to be performed by it. Assuming the accuracy of the Purchaser's representations and warranties contained in Section 2.2 hereof, the issuance and sale of the Securities are exempt from the registration and prospectus delivery requirements of the Securities Act of 1933, as amended (the "Securities Act").

II.1.5. Capitalization. The authorized capital stock of the Company consists of 150,000,000 shares of common stock, $0.01 par value ("Common Stock"), and 50,000,000 shares of preferred stock, $0.01 par value ("Preferred Stock"). As of March 31, 1998, the Company had, in the aggregate, 14,288,270 shares of Common Stock issued and outstanding. As of the date of this Agreement and as of the Closing Date, except for the Securities, the Company had and will have no shares of Preferred Stock issued and outstanding. All of the outstanding shares of Common Stock have been validly issued, are fully paid and non-assessable and were not issued in violation of any preemptive, maintenance or similar rights. At the Closing, the Securities shall be validly issued, fully paid and non-assessable and shall have not been issued in violation of any preemptive, maintenance or similar rights. Except as disclosed in the SEC Reports (as hereinafter defined), there are no options, warrants, calls, subscriptions, conversion or other rights, agreements or commitments obligating the Company to issue any capital stock of the Company or any other securities convertible into, or exchangeable, exercisable or evidencing the right to subscribe for, capital stock of the Company.

II.1.6. Financial Statements. The Company has delivered to the Purchaser true and complete copies of (a) the audited consolidated balance sheets of the Company at December 31, 1996 and 1997 and the related statements of income, cash flow and changes in shareholders' equity for the three years in the period ended December 31, 1997, accompanied by certified opinions of the Company's independent auditing firm as included in the Company's Annual Report on Form 10-K for the fiscal year ended December 31, 1997; and (b) unaudited consolidated balance sheets of the Company at March 31, 1997 and 1998 and related statements of income, cash flow and changes in shareholders' equity for the periods then ended as contained in the Company's Quarterly Report

on Form 10-Q for the fiscal quarter ended March 31, 1998, all of which have been prepared in accordance with United States generally accepted accounting principles ("GAAP") consistently applied throughout the periods involved. Such consolidated balance sheets, including the related notes, fairly present the consolidated financial position, assets and liabilities (whether accrued, absolute, contingent or otherwise) of the Company and the Subsidiaries at the dates indicated and such statements of income, cash flow and changes in shareholders' equity fairly present the consolidated results of operations, cash flow and changes in shareholders' equity of the Company and the Subsidiaries for the periods indicated. The unaudited consolidated financial statements as of and for the periods ending March 31, 1997 and 1998 contain all adjustments, which are solely of a normal recurring nature, necessary for a fair statement of the consolidated financial position and results of operations of the Company and the Subsidiaries for the periods then ended. References in this Agreement to the "Interim Balance Sheet" shall mean the consolidated balance sheet of the Company as of March 31, 1998 referred to above, and references in this Agreement to the "Interim Balance Sheet Date" shall be deemed to refer to March 31, 1998.

II.1.7. Business, Properties and Other Information. The Company is subject to the reporting requirements of the Securities Exchange Act of 1934, as amended (the "Exchange Act"), and has delivered to the Purchaser true and complete copies of the following reports and proxy statements filed with the Securities and Exchange Commission (the "Commission"):

A. its Annual Report on Form 10-K for its fiscal year ended December 31, 1997;

B. its Quarterly Report on Form 10-Q for its fiscal quarter ended March 31, 1998;

C. its Current Report on Form 8-K dated March 3, 1998; and

D. the Proxy Statement for its 1998 Annual Meeting of Stockholders, dated March 30, 1998.

Said reports and proxy statements comprise all materials required to be filed by the Company with the Commission since December 31, 1997 and are collectively called the "SEC Reports," which term shall also include on the Closing Date all further reports which the Company may theretofore have filed with the Commission.

The SEC Reports do not contain any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements contained therein, in the light of the circumstances under which they were made, not misleading; provided that to the extent any such information therein was based upon or constitutes an estimate or projection, the Company represents only that in preparing such estimate or projection it acted in good faith and on a basis which the Company reasonably believed to be reasonable and on a basis consistent with the financial statements described in Section 2.1.6 hereof and contained in the SEC Reports. The Company knows of no facts not disclosed in the SEC Reports listed above which facts individually or in the aggregate could reasonably be expected to have a Material Adverse Effect.

II.1.8. Absence of Undisclosed Liabilities. Neither the Company nor any of the Subsidiaries has liabilities or obligations, either direct or indirect, matured or unmatured or absolute, contingent or otherwise, except:

(a) those liabilities or obligations set forth on the Interim Balance Sheet (including the notes thereto) and not heretofore paid or discharged;

(b) liabilities arising in the ordinary course of business under any agreement, contract, commitment, lease or plan specifically disclosed in the SEC Reports or not required to be

disclosed therein because of the term or amount involved;

(c) those liabilities or obligations incurred, consistently with past business practice, in or as a result of the normal and ordinary course of business since the Interim Balance Sheet Date;

(d) the obligations set forth in the Transaction Documents; and

(e) those which, individually or in the aggregate, could not reasonably be expected to have a Material Adverse Effect.

II.1.9. Books of Account. The books, records and accounts of the Company accurately and fairly reflect, in reasonable detail, the transactions and the assets and liabilities of the Company and the Subsidiaries and do not contain any material inaccurate information or omit any material information necessary in order to make such books, records and accounts, in light of the circumstances under which they were prepared, not misleading. Neither the Company nor any of the Subsidiaries has engaged in any transaction, maintained any bank account or used any of the funds of the Company or the Subsidiaries except for transactions, bank accounts and funds which have been and are reflected in the normally maintained books and records of the Company.

II.1.10. Contracts and Commitments. (a) The SEC Reports contain descriptions of and include as exhibits thereto all agreements, contracts, commitments, leases, plans and other instruments, documents and undertakings required to be described therein and filed as an exhibit thereto pursuant to the Exchange Act and the rules and regulations of the Commission promulgated thereunder.

(b) Each of the agreements, contracts, commitments, leases, plans and other instruments, documents and undertakings described in and filed as an exhibit to (or required to be described in and filed as an exhibit to) the SEC Reports is valid and enforceable in accordance with its terms; the Company and the Subsidiaries are (to the extent they are a party thereto), and to the Company's knowledge all other parties thereto are, in material compliance with the provisions thereof; the Company and the Subsidiaries are not, and to the Company's knowledge no other party thereto is, in default in the performance, observance or fulfillment of any obligation, covenant or condition contained therein; and no event has occurred which with or without the giving of notice or lapse of time, or both, would constitute a default thereunder. Furthermore, no such agreement, contract, commitment, lease, plan or other instrument, document or undertaking, in the reasonable opinion of the Company, contains any contractual requirement with which there is a reasonable likelihood the Company, any Subsidiary or any other party thereto will be unable to comply.

II.1.11. Liens and Encumbrances; Condition of Assets. (a) The Company and each of the Subsidiaries has good, valid and indefeasible title to its material assets free and clear of all title defects or objections, mortgages, liens, claims, charges, pledges, or other encumbrances of any nature whatsoever, including without limitation licenses, leases, chattel or other mortgages, collateral security arrangements, pledges, title imperfections, defect or objection liens, security interests, conditional and installment sales agreements, charges, easements, encroachments or restrictions, of any kind and other title or interest retention arrangements, reservations or limitations of any nature (collectively, "Liens"), other than (i) those reflected or reserved against on the Interim Balance Sheet (including the notes thereto), (ii) Liens for Taxes, assessments and other governmental charges that are not due and payable or that may thereafter be paid without penalty, (iii) those imposed by municipal, county, state or federal land use or development statutes, ordinances, rules, regulations or restrictions, and

(iv) those that, individually or in the aggregate, could not reasonably be expected to have a Material Adverse Effect. (The items referred to in the exception to the immediately preceding sentence are hereinafter referred to as "Permitted Liens".)

(b) All of the assets of the Company and the Subsidiaries are in good operating condition and repair, subject to normal wear and maintenance, are usable in the regular and ordinary course of business and materially conform to all applicable laws, ordinances, codes, rules and regulations, and Permits relating to their construction, use and operation.

II.1.12. Insurance. The Company and each of the Subsidiaries has insurance policies in full force and effect for such amounts as are sufficient for material compliance with all requirements of law and of all material agreements to which the Company or any of the Subsidiaries is a party or by which any of them is bound. Except as set forth in Schedule 2.1.12, no event relating to the Company or the Subsidiaries has occurred that can reasonably be expected to result in a material retroactive upward adjustment in premiums under any such insurance policies or that is likely to result in a material prospective upward adjustment in such premiums. Excluding insurance policies that have expired and been replaced in the ordinary course of business, no insurance policy has been cancelled within the last two years and, to the Company's knowledge, no threat has been made to cancel any insurance policy of the Company or any Subsidiary during such period. No event has occurred, including, without limitation, the failure by the Company or any Subsidiary to give any notice or information or the Company or any Subsidiary giving any inaccurate or erroneous notice or information, which limits or impairs the rights of the Company or any Subsidiary under any such insurance policies. The Company has provided the Purchaser with true and complete copies of all regularly prepared loss run reports as of the date hereof.

II.1.13. Conduct of the Business Since the Interim Balance Sheet Date. Except for the transactions contemplated by the Transaction Documents, since the Interim Balance Sheet Date, neither the Company nor any of the Subsidiaries has:

(a) incurred any liabilities, other than liabilities incurred in the ordinary course of business consistent with past practice, or discharged or satisfied any lien or encumbrance, or paid any liabilities, other than in the ordinary course of business consistent with past practice, or failed to pay or discharge when due any liabilities of which the failure to pay or discharge has caused or will cause any material damage or risk of material loss to it or any of its material assets or properties;

(b) sold, encumbered, assigned or transferred any material assets or properties other than in the ordinary course of business consistent with past practices;

(c) created, incurred, assumed or guaranteed any indebtedness for money borrowed, or mortgaged, pledged or subjected any of its assets to any mortgage, lien, pledge, security interest, conditional sales contract or other encumbrance of any nature whatsoever, except for Permitted Liens, in each case other than in the ordinary course consistent with past practices;

(d) made or suffered any amendment or termination of any material agreement, contract, commitment, lease or plan to which it is a party or by which it is bound, or cancelled, modified or waived any substantial debts or claims held by it or waived any rights of substantial value, in each case other than in the ordinary course of business consistent with past practices;

(e) declared, set aside or paid any dividend or made or agreed to make any other distribution or payment in respect of its capital shares or redeemed, purchased or otherwise acquired or agreed to redeem, purchase or acquire any of its capital shares;

(f) suffered any damage, destruction or loss that, individually or in the aggregate, could reasonably be expected to have a Material Adverse Effect;

(g) made commitments or agreements for capital expenditures or capital additions or betterments exceeding in the aggregate $500,000 except in the ordinary course of business consistent with past practices or such as may be involved in ordinary repair, maintenance or replacement of its assets;

(h) increased the salaries or other compensation of, or made any advance (excluding advances for ordinary and necessary business expenses) or loan to, any of its employees or made any increase in, or any addition to, other benefits to which any of its employees may be entitled, other than regularly scheduled increases in the ordinary course of business consistent with past practices;

(i) except as required by law or GAAP, changed any of the accounting principles followed by it or the methods of applying such principles;

(j) entered into any transaction other than in the ordinary course of business consistent with past practice; or

(k) suffered any material adverse change in its business, operations, assets, properties, prospects or condition (financial or otherwise).

II.1.14. Employee Benefit Plans. (a) All "employee benefit plans," as defined by Section 3(3) of the Employee Retirement Income Security Act of 1974, as amended ("ERISA"), and all other employee benefit arrangements or payroll practices, including, without limitation, bonus plans, consulting or other compensation agreements, incentive, equity or equity-based compensation, deferred compensation arrangements, stock purchase, severance pay, and change in control agreements, programs, policies or arrangements maintained by the Company or any Subsidiary or to which the Company or any Subsidiary contributes or contributed on behalf of its respective employees or has any liability, contingent or otherwise (the "Employee Plans"), are listed on Schedule 2.1.14(a). Any Employee Plans which constitute "employee pension benefit plans" as defined in Section 3(2) of ERISA (the "Pension Plans") are so designated on Schedule 2.1.14(a). No Pension Plan is subject to Title IV of ERISA or Section 412 of the Code.

(b) Except as set forth on Schedule 2.1.14(b), (i) each Pension Plan is qualified under Section 401 of the Internal Revenue Code of 1986, as amended (the "Code"), and any trust maintained pursuant thereto is exempt from federal income taxation under Section 501 of the Code; and (ii) the Company and each of the Subsidiaries has complied with respect to each Employee Plan in all material respects with the reporting and disclosure requirements of ERISA and no "party in interest" or "disqualified person" has engaged in a "prohibited transaction" within the meaning of Section 406 of ERISA or Section 4975 of the Code.

(c) The Employee Plans have been established, maintained and operated in all material respects in accordance with their terms and with all provisions of ERISA, the Code and other applicable federal and state laws and regulations.

(d) Neither the execution and delivery of this Agreement nor the consummation of the transactions contemplated hereby will (i) result in any payment becoming due to any employee or consultant (current, former or retired) of the Company or any of the Subsidiaries, (ii) increase any benefits otherwise payable under any Employee Plan or (iii) result in the acceleration of the time of payment or vesting of any such benefits.

II.1.15. Litigation; Decrees. There are no judicial

or administrative actions, proceedings or investigations pending or, to the Company's knowledge, threatened that question the validity of this Agreement or any action taken or to be taken by the Company in connection with this Agreement. Except as described in the SEC Reports or on Schedule 2.1.15, there are no (i) lawsuits, claims, administrative or other proceedings or investigations relating to the conduct of the Business pending or, to the Company's knowledge, threatened by, against or affecting the Company or any affiliate thereof or (ii) judgments, orders or decrees of any Governmental Entity binding on the Company or any Subsidiary.

II.1.16. Compliance With Law; Permits. The Company and each of the Subsidiaries has complied with each law, judgment, order and decree of any Governmental Entity to which the Company or the Subsidiaries or their business, operations, assets or properties is subject and is not currently in violation of any of the foregoing, except where the failure to so comply with or violation of any of the foregoing could not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect. The Company and each of the Subsidiaries owns, holds, possesses or lawfully uses in the operation of its business all material licenses, permits, authorizations and approvals (collectively, "Permits") which are necessary to conduct the Business as now conducted or for the ownership and use of its assets, free and clear of all Liens and in compliance with all laws. For purposes of this Agreement, the term "Permit" excludes any development permit, approval or authorization issued by any municipal, county, state or federal agency. Neither the Company nor any Subsidiary is in default, nor has the Company or any Subsidiary received any notice of any claim of default, with respect to any such Permits. All such Permits are renewable by their terms or in the ordinary course of business without the need to comply with any special qualification procedures or to pay any amounts other than routine filing fees. None of such Permits will be adversely affected by consummation of the transactions contemplated hereby. No shareholder, director, officer, employee or former employee of the Company or any affiliates of the Company, or any other person, firm or corporation owns or has any proprietary, financial or other interest (direct or indirect) in any Permits which the Company or any Subsidiary owns, possesses or uses in the operation of the Business as now conducted.

II.1.17. Taxes. (a) All Tax Returns (as defined in paragraph (e) below) that are required to be filed on or before the Closing Date by the Company or any of the Subsidiaries have been duly filed on a timely basis under the statutes, rules or regulations of each applicable jurisdiction. To the best knowledge of the Company, all such Tax Returns were complete and accurate in all material respects. All Taxes reflected on such returns as owed by the Company or the Subsidiaries have been paid, whether or not such Taxes are disputed.

(b) No claim for assessment or collection of Taxes has been asserted against the Company or any of the Subsidiaries. Except as disclosed on Schedule 2.1.17(b), neither the Company nor any of the Subsidiaries is a party to any pending action, proceeding or investigation by any Governmental Entity for the assessment or collection of Taxes nor does the Company have knowledge of any such threatened action, proceeding or investigation.

(c) Except as disclosed on Schedule 2.1.17(c), no waivers of statutes of limitation in respect of any Tax Returns have been given or requested by the Company or any of the Subsidiaries nor has the Company or any Subsidiary agreed to any extension of time with respect to a Tax assessment or deficiency. No claim has ever been made by a Governmental Entity in a jurisdiction where the Company or any Subsidiary does not currently file Tax Returns that it is or may be subject to taxation by that jurisdiction nor is the Company aware that any such assertion of jurisdiction is threatened. No security interests have been imposed upon or asserted against any of the assets of the Company or any of the Subsidiaries as a result of

or in connection with any failure, or alleged failure, to pay any Tax.

(d) To the best knowledge of the Company, the Company and each of the Subsidiaries has withheld and paid all Taxes required to be withheld in connection with any amounts paid or owing to any employee, creditor, consultant, independent contractor or other third party.

(e) For purposes of this Agreement, the terms "Tax" and "Taxes" shall mean all federal, state, local, or foreign income, payroll, employee withholding, unemployment insurance, social security, sales, use, service, service use, leasing, leasing use, excise, franchise, gross receipts, value added, alternative or add-on minimum, estimated, occupation, real and personal property, stamp, transfer, workers' compensation, severance, windfall profits, environmental (including taxes under Section 59A of the Code), or other tax of the same or of a similar nature, including any interest, penalty, or addition thereto, whether disputed or not. The term "Tax Return" means any return, declaration, report, claim for refund, or information return or statement relating to Taxes or any amendment thereto, and including any schedule or attachment thereto.

II.1.18. Real Property. (a) The SEC Reports list all material real property owned by the Company and each of its Subsidiaries (collectively, the "Owned Real Property"). Except as described in the SEC Reports or on Schedule 2.1.18(a), the Company and each of its Subsidiaries has good and indefeasible title in fee simple title to all Owned Real Property owned by it, free and clear of all Liens (other than Permitted Liens).

(b) The SEC Reports describe all material real property leased by the Company and each of its Subsidiaries (collectively, the "Leased Real Property"). Except as described in the SEC Reports or on Schedule 2.1.18(b), the Company and each of the Subsidiaries has good and valid leaseholds in all Leased Real Property, in each case, under enforceable leases, free and clear of all Liens (except Permitted Liens).

(c) None of such Owned Real Property or Leased Real Property is subject to any easements, rights of way, licenses, grants, building or use restrictions, exceptions, reservations, limitations or other impediments which, individually or in the aggregate, could reasonably be expected to have a Material Adverse Effect.

II.1.19. Commissions or Finders Fees. Neither the Company or any Subsidiary nor any person or entity acting on the behalf of the Company or any Subsidiary has agreed to pay a commission, finder's fee or similar payment in connection with this Agreement or any matter related hereto to any other person or entity.

II.1.20. Certain Business Practices and Regulations; Affiliate Transactions. (a) None of the Company, the Subsidiaries or any directors, officers, agents or employees of the Company or the Subsidiaries has (i) used any corporate funds for unlawful contributions, gifts, entertainment or other unlawful expenses relating to political activity, (ii) made any unlawful payment to foreign or domestic government officials or employees or to foreign or domestic political parties or campaigns from corporate funds or violated any provision of the Foreign Corrupt Practices Act of 1977, as amended, or (iii) made any other unlawful payment.

(b) Except as described in the SEC Reports or on Schedule 2.1.20(b), none of (A) the officers or directors of the Company or any of the Subsidiaries or any entity controlling or controlled by any of the foregoing, or (B) any securityholder known to the Company to own of record or beneficially more than 5% of the Common Stock, (i) owns, directly or indirectly, in whole or in part, any Leased Real Property or other property the use of which is necessary for the Business, (ii) has any cause of action or other suit, action or claim whatsoever against, or owes

any amount to the Company or any of the Subsidiaries other than claims in the ordinary course of business, (iii) has sold to, or purchased from, the Company or any of the Subsidiaries any assets or property for aggregate consideration in excess of $60,000 since January 1, 1998, or (iv) is a party to any contract or participates in any arrangement, written or oral, pursuant to which the Business provides services of any nature to any such individual or entity, except to such individual in his capacity as an employee of the Company or any of the Subsidiaries.

II.1.21. Compliance with Nasdaq National Market Rules and Regulations. The Company has complied in all material respects with all rules and regulations of the National Associations of Securities Dealers, Inc. ("NASD") as they pertain to the Nasdaq Stock Market's National Market interdealer quotation system since the date the Common Stock was originally approved for quotation thereon. No event has occurred or, to the knowledge of the Company, is reasonably likely to occur which could result in the Common Stock being delisted from the Nasdaq National Market or the Company being subject to any material fine or sanction imposed by The Nasdaq Stock Market or the NASD.

II.2. Representations and Warranties of the Purchaser. The Purchaser makes the following representations and warranties to the Company, each of which is true and correct as of the date hereof and shall be true and correct as of the Closing Date and shall be unaffected by any investigation heretofore or hereafter made by the Company.

II.2.1. Corporate Organization. The Purchaser is a limited partnership duly formed and validly existing under the laws of the State of Texas and has the requisite partnership power and authority to own, lease or otherwise hold its properties and assets and to carry on its business as presently conducted.

II.2.2. Authorization and Effect of Agreement. The Purchaser has the requisite partnership power to execute and deliver this Agreement and to consummate the transactions contemplated hereby to be consummated by it. The execution and delivery by the Purchaser of this Agreement and the consummation by it of the transactions contemplated hereby to be consummated by it have been duly authorized by all necessary partnership action on the part of the Purchaser. This Agreement has been duly executed and delivered by the Purchaser and constitutes a valid and binding obligation of the Purchaser, except as may be limited by bankruptcy, insolvency, reorganization, moratorium or other similar laws affecting the enforcement of creditors' rights in general and subject to general principles of equity (regardless of whether such enforceability is considered in a proceeding in equity or at law).

II.2.3. Investment Intent. The Purchaser is acquiring the Securities for its own account for investment and not with a view to, or for sale or other disposition in connection with, any distribution thereof, nor with any present intention, agreement or understanding to sell or otherwise dispose of all or any part of the Securities.

II.2.4. Sophistication and Financial Strength. The Purchaser is an "accredited investor" (as that term is defined in Rule 501 promulgated under the Securities Act) with such knowledge and experience in business and financial matters that the Purchaser is capable of evaluating, and has evaluated, the merits and risks of an investment in the Company and of making an informed investment decision. The Purchaser has sufficient financial strength to hold the Securities as an investment and to bear the economic risks of such investment (including the possible loss of such investment) for an indefinite period of time. The Purchaser has had the opportunity to ask questions of representatives of the Company and receive answers concerning the terms and conditions of the Securities and to obtain any additional information that it deemed necessary to verify the accuracy of information provided to Purchaser by the Company.

II.2.5. Restrictions on Transfer. The Purchaser understands that neither the Securities nor the Common Stock for which the Securities may be redeemed has been registered under the Securities Act or the securities laws of any state or other jurisdiction and that neither the Securities nor the Common Stock may be offered for sale, sold, transferred or otherwise disposed of unless registered under the Securities Act and any applicable state securities laws or sold, transferred or disposed of in a transaction exempt for the registration requirements of the Securities Act and any applicable state securities laws (and, if requested by the Company, the Purchaser shall deliver an opinion of counsel reasonably satisfactory to the Company that such transaction is exempt from such registration requirements).

ARTICLE III. CONDITIONS TO CLOSING

III.1. Conditions Precedent to Obligations of the Purchaser. The obligations of the Purchaser under this Agreement to consummate the transactions contemplated hereby will be subject to the satisfaction, at or prior to Closing, of all of the following conditions, any one or more of which may be waived at the option of the Purchaser:

III.1.1. Representations, Warranties and Covenants.

(a) All representations and warranties of the Company made in this Agreement or in any Exhibit, Schedule or document delivered pursuant hereto that are qualified with respect to materiality shall be true and complete in all respects as of the date hereof and on and as of the Closing Date and such representations and warranties that are not so qualified shall be true and complete on the date hereof and, in all material respects, on and as of the Closing Date, without regard to any schedule updates furnished by the Company after the date hereof.

(b) All of the terms, covenants and conditions to be complied with and performed by the Company on or prior to the Closing Date shall have been complied with or performed.

(c) The Purchaser shall have received a certificate, dated as of the Closing Date, executed by an Executive Officer of the Company, certifying in such detail as the Purchaser may reasonably request that the conditions specified in Sections 3.1.1(a) and (b) hereof have been fulfilled.

III.1.2. Closing Deliveries. The Company shall have delivered to the Purchaser the documents identified in Section 4.1.

III.1.3. Governmental Consents or Approvals. Each of the governmental and other approvals, consents or waivers listed or required to be listed on Schedule 2.1.4 shall have been obtained.

III.1.4. No Adverse Proceedings. No suit, action, claim or governmental proceeding shall be pending against, and no order, decree or judgment of any court, agency or Governmental Entity shall have been rendered against, any party hereto which would render it unlawful, as of the Closing Date, to effect the transactions contemplated by this Agreement in accordance with its terms.

III.1.5. Stock Certificates. Stock certificates representing the Securities shall have been duly executed and delivered in accordance with Section 1.2.

III.1.6. Certificate of Designations. The Certificate of Designations shall have been duly filed with, and accepted by, the Secretary of State of the State of Delaware.

III.2. Conditions Precedent to Obligations of the Company. The obligations of the Company under this Agreement to consummate the transactions contemplated hereby will be subject

to the satisfaction, at or prior to the Closing, of all of the following conditions, any one or more of which may be waived at the option of the Company:

III.2.1. No Material Misrepresentation or Breach.

(a) All representations and warranties of the Purchaser made in this Agreement or in any Exhibit, Schedule or document delivered pursuant hereto, shall be true and complete in all material respects as of the date hereof and on and as of the Closing Date.

(b) All of the terms, covenants and conditions to be complied with and performed by the Purchaser on or prior to the Closing Date shall have been complied with or performed.

(c) The Company shall have received a certificate, dated as of the Closing Date, executed by an Executive Officer of the Purchaser, certifying in such detail as the Company may reasonably request that the conditions specified in Sections 3.2.1(a) and (b) hereof have been fulfilled.

III.2.2. Closing Deliveries. The Purchaser shall have delivered to the Company the purchase price and certificate as set forth in Section 4.2.

III.2.3. Governmental Consents or Approvals. Each of the governmental and other approvals, consents or waivers listed on Schedule 2.1.4 shall have been obtained.

III.2.4. No Adverse Proceedings. No suit, action, claim or governmental proceeding shall be pending against, and no order, decree or judgment of any court, agency or other Governmental Entity shall have been rendered against, any party hereto which would render it unlawful, as of the Closing Date, to effect the transactions contemplated by this Agreement in accordance with its terms.

III.3. Conditions Precedent to Obligations of each of the Company and the Purchaser. The obligations of the Company and the Purchaser under this Agreement to consummate the transactions contemplated hereby will be subject to the satisfaction, at or prior to the Closing, of all of the following conditions, any one or more of which may be waived by mutual agreement of the Company and the Purchaser:

III.3.1. Investor Rights Agreement. An Investor Rights Agreement (the "Investor Rights Agreement"), in the form attached as an exhibit to the Master Agreement (as defined), shall have been duly executed and delivered, shall be in full force and effect and no term or condition thereof shall have been amended, modified or waived.

III.3.2. Master Agreement. A Master Agreement (the "Master Agreement"), shall have been duly executed and delivered, shall be in full force and effect and no term or condition thereof shall have been amended, modified or waived.

III.3.3. Loan Agreement. A Loan Agreement (the "Loan Agreement"), in the form attached as an exhibit to the Master Agreement, shall have been duly executed and delivered, shall be in full force and effect and no term or condition thereof shall have been amended, modified or waived.

ARTICLE IV. CLOSING DELIVERIES

IV.1. Deliveries by the Company. At the Closing, the Company will deliver to the Purchaser the following:

IV.1.1. Certified Resolutions. Certified resolutions of the Board of Directors of the Company approving the execution and delivery of this Agreement, the Transaction Documents, and each of the other documents delivered by the Company pursuant hereto or thereto and authorizing the consummation of the transactions contemplated hereby and thereby.

IV.1.2. Officer's Certificate. A certificate, dated the Closing Date, executed on behalf of the Company in the form described in Section 3.1.1.

IV.1.3. Good Standing Certificates. Governmental certificates showing that the Company and the Subsidiaries are duly incorporated and in good standing in the state of its organization certified as of a date not more than five (5) days before the Closing Date.

IV.2. Deliveries by the Purchaser. At the Closing, the Purchaser will deliver to the Company:

IV.2.1. Purchase Price. Cash in immediately available funds via wire transfer in the aggregate amount of $9,999,995.52 to the account or accounts designated by the Company pursuant to Section 1.2.

IV.2.2. Officer's Certificate. A certificate, dated the Closing Date, executed on behalf of the Purchaser in the form described in Section 3.2.1.

ARTICLE V. POST-CLOSING COVENANTS

V.1. Post-Closing Notifications. The Purchaser and the Company will, and each will cause their respective affiliates to, comply with any post-Closing notification or other requirements, to the extent then applicable to such party, of any antitrust, trade competition, investment or control, export or other law of any Governmental Entity having jurisdiction over the Purchaser or the Company.

V.2. Certain Tax Matters. All sales, use, transfer, stamp, conveyance, value added or other similar taxes, duties, excises or governmental charges imposed by any taxing jurisdiction, domestic or foreign, and all recording or filing fees, notarial fees and other similar costs of Closing with respect to the issuance of the Securities or otherwise on account of this Agreement or the transactions contemplated hereby will be borne by the Company. The Company will indemnify the Purchaser against any liability, direct or indirect, for any Taxes imposed on the Purchaser with respect to the issuance of the Securities.

ARTICLE VI. SURVIVAL AND INDEMNIFICATION

VI.1. Survival of Representations, Warranties and Covenants. (a) The representations and warranties of the Company and of the Purchaser contained in this Agreement shall survive the Closing for a period of two years thereafter. Any claim for an Indemnifiable Loss (as hereafter defined) asserted within such period of survival as herein provided will be timely made for purposes hereof.

(b) Unless a specified period is set forth in this Agreement (in which event such specified period will control), the covenants in this Agreement shall survive the Closing and remain in effect for two years.

VI.2. Certain Definitions. For purposes of this Agreement, (i) "Indemnity Payment" means any amount of Indemnifiable Losses required to be paid pursuant to this Agreement, (ii) "Indemnitee" means any person or entity entitled to indemnification under this Agreement, (iii) "Indemnifying Party" means any person or entity required to provide indemnification under this Agreement, (iv) "Indemnifiable Losses" means any and all damages, losses, liabilities, obligations, costs and expenses, and any and all claims, demands or suits (by any person or entity, including without limitation any Governmental Entity), including without limitation the costs and expenses of any and all actions, suits, proceedings, demands, assessments, judgments, settlements and compromises relating thereto and including reasonable attorneys' fees and expenses in connection therewith; provided, that Indemnifiable Losses shall not include any loss of anticipated

profits, loss of use of revenues or capital, or any other special, incidental or consequential losses or damages, and (v) "Third Party Claim" means any claim, action or proceeding made or brought by any person or entity who or which is not a party to this Agreement or an affiliate of a party to this Agreement.

VI.3. Indemnification. (a) The Company agrees to indemnify, defend and hold harmless the Purchaser and its affiliates and their respective directors, officers, partners, employees, agents and representatives from and against any and all Indemnifiable Losses, subject to the limitations and equitable adjustments set forth Section 6.5 hereof, to the extent relating to, resulting from or arising out of:

(i) any breach of representation or warranty of the Company under Article II of this Agreement; and

(ii) any breach or nonfulfillment of any agreement or covenant of the Company under the terms of this Agreement.

(b) The Purchaser agrees to indemnify, defend and hold harmless the Company and its affiliates and their respective directors, officers, partners, employees, agents, and representatives from and against any and all Indemnifiable Losses, subject to the limitations set forth Section 6.5 hereof, to the extent relating to, resulting from and arising out of:

(i) any breach of representation or warranty by the Purchaser under Article II of this Agreement; and

(ii) any breach or nonfulfillment of any agreement or covenant of the Purchaser under the terms of this Agreement.

(c) (i) The Company agrees to pay, in accordance with Section 6.3(c)(ii) below, any costs and expenses of the defense of any lawsuit (a "Transaction Suit"), including any negotiations relating to the settlement or compromise thereof, initiated by a third party against the Purchaser or any of its affiliates or their respective officers, directors, employees, partners, agents or representatives (each, a "Purchaser Transaction Defense Party") that arises out of or is based upon allegations relating to the transactions contemplated by the Transaction Documents that are consummated on the Closing Date in the event that any such Transaction Suit is filed within two years of the date of this Agreement.

(ii) If any Purchaser Transaction Defense Party is named or becomes party to any Transaction Suit, the Company agrees to assume and provide for the defense of such Purchaser Transaction Defense Party, including providing a joint defense in the event that the Company or any of its affiliates or their officers, directors, employees, partners, agents or representatives (each, a "Company Transaction Defense Party") is named or becomes a party to such Transaction Suit. The Company shall provide legal counsel to the Purchaser Transaction Defense Party (and pay all related fees and expenses of such counsel), which counsel shall be reasonably satisfactory to Purchaser and may be counsel for the Company. Notwithstanding the foregoing, the Purchaser Transaction Defense Parties shall have the right to employ their own counsel, and the Company shall pay the reasonable fees and expenses of such counsel in an amount up to $250,000, in the event that the Purchaser, upon advice of counsel, reasonably concludes that there is a conflict of interest between any Purchaser Transaction Defense Party, on the one hand, and any Company Transaction Defense Party, on the other hand, in any such Transaction Suit.

VI.4. Defense of Claims. (a) If any Indemnitee receives notice of assertion or commencement of any Third Party Claim

against such Indemnitee with respect to which an Indemnifying Party is obligated to provide indemnification under this Agreement, the Indemnitee will give such Indemnifying Party reasonably prompt written notice thereof, but in any event not later than 20 calendar days after receipt of such notice of such Third Party Claim. Such notice will describe the Third Party Claim in reasonable detail, will include copies of all material written evidence thereof and will indicate the estimated amount, if reasonably practicable, of the Indemnifiable Loss that has been or may be sustained by the Indemnitee. The Indemnifying Party will have the right to participate in, or, by giving written notice to the Indemnitee, to assume, the defense of any Third Party Claim at such Indemnifying Party's own expense and by such Indemnifying Party's own counsel (reasonably satisfactory to the Indemnitee), and the Indemnitee will cooperate in good faith in such defense.

(b) If, within ten calendar days after giving notice of a Third Party Claim to an Indemnifying Party pursuant to Section 6.4(a), an Indemnitee receives written notice from the Indemnifying Party that the Indemnifying Party has elected to assume the defense of such Third Party Claim as provided in the last sentence of Section 6.4(a), the Indemnifying Party will not be liable for any legal expenses subsequently incurred by the Indemnitee in connection with the defense thereof; provided, however, that if the Indemnifying Party fails to take reasonable steps necessary to defend diligently such Third Party Claim within ten calendar days after receiving written notice from the Indemnitee that the Indemnitee believes the Indemnifying Party has failed to take such steps or if the Indemnifying Party has not undertaken fully to indemnify the Indemnitee in respect of all Indemnifiable Losses relating to the matter, the Indemnitee may assume its own defense, and the Indemnifying Party will be liable for all reasonable costs or expenses paid or incurred in connection therewith. Without the prior written consent of the Indemnitee, the Indemnifying Party will not enter into any settlement of any Third Party Claim which would lead to liability or create any financial or other obligation on the part of the Indemnitee for which the Indemnitee is not entitled to indemnification hereunder. If a firm offer is made to settle a Third Party Claim without leading to liability or the creation of a financial or other obligation on the part of the Indemnitee for which the Indemnitee is not entitled to indemnification hereunder and the Indemnifying Party desires to accept and agree to such offer, the Indemnifying Party will give written notice to the Indemnitee to that effect. If the Indemnitee fails to consent to such firm offer within ten calendar days after its receipt of such notice, the Indemnitee may continue to contest or defend such Third Party Claim and, in such event, the maximum liability of the Indemnifying Party as to such Third Party Claim will not exceed the amount of such settlement offer, plus costs and expenses paid or incurred by the Indemnitee through the end of such ten calendar day period.

(c) A failure to give timely notice or to include any specified information in any notice as provided in Sections 6.4(a) or 6.4(b) will not affect the rights or obligations of any party hereunder except and only to the extent that, as a result of such failure, any party which was entitled to receive such notice was deprived of its right to recover any payment under its applicable insurance coverage or was otherwise damaged as a result of such failure.

(d) The Indemnifying Party will have a period of 30 calendar days within which to respond in writing to any claim by an Indemnitee on account of an Indemnifiable Loss which does not result from a Third Party Claim (a "Direct Claim"). If the Indemnifying Party does not so respond within such 30 calendar day period, the Indemnifying Party will be deemed to have rejected such claim, in which event the Indemnitee will be free to pursue such remedies as may be available to the Indemnitee on the terms and subject to the provisions of this Article VI.

VI.5. Limitation of Liability. (a) Notwithstanding any other provision hereof, no Indemnitee will be entitled to make a

claim against an Indemnifying Party in respect of any breach of a representation or warranty under Section 6.3(a)(i) or 6.3(b)(i) unless and until the aggregate amount of claims in respect of breaches of representations and warranties asserted for Indemnifiable Losses under Section 6.3(a)(i) or 6.3(b)(i), as applicable, exceeds $500,000, in which event the Indemnitee will be entitled to make a claim against the Indemnifying Party to the extent of the full amount of the Indemnifiable Losses.

(b) Notwithstanding any other provision hereof, in no event shall an Indemnifying Party be liable under this Article VI for any Indemnifiable Losses in excess of $10,000,000.

(c) In the event of a claim or right of action by either party hereto against the other party arising out of this Agreement and the transactions contemplated hereby (whether based on contract, tort (including negligence), strict liability or otherwise), each party's sole and exclusive remedy shall be its rights under this Article VI and Section 8.1 of this Agreement.

ARTICLE VII. TERMINATION

VII.1. Termination. Notwithstanding anything contained in this Agreement to the contrary, this Agreement may be terminated at any time prior to the Closing, (a) by the mutual written consent of the Purchaser and the Company, or (b) if the party seeking to terminate is not then in material default or breach of this Agreement:

(i) by either the Purchaser or the Company if the Closing shall not have occurred on or before June 30, 1998;

(ii) by either the Purchaser or the Company if there shall have been entered a final, nonappealable order or injunction of any Governmental Entity restraining or prohibiting the consummation of the transactions contemplated hereby or any material part thereof; or

(iii) by either the Purchaser or the Company if the other party is in material breach of any representation, warranty, covenant or agreement herein contained and such breach shall not be cured within twenty (20) days of the date of notice of default served by the party claiming such material default.

In no event shall termination of this Agreement relieve any party of any liability for breaches of this Agreement prior to the date of termination.

ARTICLE VIII. MISCELLANEOUS PROVISIONS

VIII.1. Specific Performance. The parties recognize that if the Company refuses to perform under the provisions of this Agreement, monetary damages alone will not be adequate to compensate the Purchaser for its injury. The Purchaser shall therefore be entitled, in addition to any other remedies that may be available, to obtain specific performance of the terms of this Agreement. If any action is brought by the Purchaser to enforce this Agreement, the Company shall waive the defense that there is an adequate remedy at law. In the event of a default by the Company which results in the filing of a lawsuit for damages, specific performances, or other remedies, the Purchaser shall be entitled to reimbursement by the Company of reasonable legal fees and expenses incurred by the Purchaser.

VIII.2. Notices. All notices and other communications required or permitted hereunder will be in writing and (i) delivered personally, (ii) sent by telefacsimile, (iii) delivered by a nationally recognized overnight courier service, or (iv) sent by registered or certified mail, postage prepaid, as follows:

(a) If to the Company, to:
Stratus Properties Inc.

98 San Jacinto Boulevard, Suite 2200
Austin, Texas 78701
Facsimile No.: (512) 478-5788
Attention: William H. Armstrong, III

with a copy to:

Stratus Properties Inc.
1615 Poydras
New Orleans, LA 70112
Facsimile No.: (504) 585-3513
Attention: John G. Amato

(b) If to the Purchaser, to:

Oly/Stratus Equities, L.P.
200 Crescent Court, Suite 1650
Dallas, Texas 75201
Facsimile No.: (214) 740-7355
Attention: David D. Deniger

with a copy to:

Weil, Gotshal & Manges LLP
100 Crescent Court, Suite 1300
Dallas, Texas 75201
Facsimile No.: (214) 746-7777
Attention: Robert C. Feldman

All notices and other communications required or permitted under this Agreement that are addressed as provided in this Section 8.2 will (x) if delivered personally or by overnight courier service, be deemed given upon delivery; (y) if delivered by telefacsimile or similar facsimile transmission, be deemed given when electronically confirmed; and (z) if sent by registered or certified mail, be deemed given three days following the date mailed. Any party from time to time may change its address for the purpose of notices to that party by giving a similar notice specifying a new address, but no such notice will be deemed to have been given until it is actually received by the party sought to be charged with the contents thereof.

VIII.3. Expenses. Except as otherwise expressly set forth herein, each party hereto shall pay its own fees and expenses incurred by it in connection with the transactions contemplated by this Agreement.

VIII.4. Successors and Assigns. This Agreement will be binding upon and inure to the benefit of the parties hereto and their respective successors and permitted assigns, but will not be assignable or delegable by the Company. Nothing in this Agreement is intended to limit the ability of the Purchaser to sell or to transfer any or all of the Securities (and the rights relating thereto) following the Closing Date.

VIII.5. Waiver. The Purchaser and the Company by written notice to the other may (a) extend the time for performance of any of the obligations of the other under this Agreement, (b) waive any inaccuracies in the representations or warranties of the other contained in this Agreement or in any document delivered in connection herewith, (c) waive compliance with any of the conditions or covenants of the other contained in this Agreement, or (d) waive or modify performance of any of the obligations of the other under this Agreement; provided, however, that no such party may, without the prior written consent of the other party, make or grant such extension of time, waiver of inaccuracies or compliance or waiver or modification of performance with respect to its (or any of its affiliates) representations, warranties, conditions or covenants hereunder. Except as provided in the immediately preceding sentence, no action taken pursuant to this Agreement will be deemed to constitute a waiver of compliance with any representations, warranties, conditions or covenants contained in this Agreement and will not operate or be construed as a waiver of any

subsequent breach, whether of a similar or dissimilar nature.

VIII.6. Entire Agreement. The Transaction Documents (including the Schedules and Exhibits hereto and thereto) supersedes any other agreement, whether written or oral, that may have been made or entered into by any party or any of their respective affiliates (or by any director, officer or representative thereof) relating to the matters contemplated hereby or thereby. The Transaction Documents (together with the Exhibits and Schedules hereto and thereto) constitutes the entire agreement by and among the parties hereto and there are no agreements or commitments by or among such parties or their affiliates except as expressly set forth herein.

VIII.7. Amendments and Supplements. This Agreement may be amended or supplemented at any time by additional written agreements signed by the parties hereto.

VIII.8. Rights of the Parties. Except as expressly provided in Article VI or in Section 8.4, nothing expressed or implied in this Agreement is intended or will be construed to confer upon or give any person or entity other than the parties hereto and their respective affiliates any rights or remedies under or by reason of this Agreement or any transaction contemplated hereby.

VIII.9. Brokers. The Purchaser hereby agrees to indemnify and hold harmless the Company, and the Company hereby agrees to indemnify and hold harmless the Purchaser, against any liability, claim, loss, damage or expense incurred by the Purchaser or by the Company, as the case may be, relating to any fees or commissions owed to any broker, finder, or financial advisor as a result of actions taken by the other in connection with this Agreement or the transactions contemplated hereby. Any indemnification payment by the Company required by this Section shall be equitably adjusted so that the payment of such amount shall not adversely affect the Purchaser, through its ownership of the Securities or the Common Stock issuable upon redemption thereof, if any, or otherwise.

VIII.10. Further Assurances. From time to time, as and when requested by any party, the other party will execute and deliver, or cause to be executed and delivered, all such documents and instruments as may be reasonably necessary to consummate the transactions contemplated by this Agreement.

VIII.11. Governing Law. This Agreement, including without limitation, the interpretation, construction and validity hereof, shall be governed by the laws of the State of Delaware, without regard to conflict of law principles thereof.

VIII.12. Severability. The parties agree that if one or more provisions contained in this Agreement shall be deemed or held to be invalid, illegal or unenforceable in any respect under any applicable law, this Agreement shall be construed with the invalid, illegal or unenforceable provision deleted, and the validity, legality and enforceability of the remaining provisions contained herein shall not be affected or impaired thereby.

VIII.13. Execution in Counterparts. This Agreement may be executed in two or more counterparts, each of which will be deemed an original, but all of which together will constitute one and the same agreement.

VIII.14. Titles and Headings. Titles and headings to sections herein are inserted for convenience of reference only, and are not intended to be a part of or to affect the meaning or interpretation of this Agreement.

VIII.15. Certain Interpretive Matters and Definitions. (a) Unless the context otherwise requires, (i) "Transaction Documents" mean, collectively, this Agreement, the Certificate of Designations, the Investor Rights Agreement, the Master Agreement, and the Loan Agreement, including all exhibits and schedules hereto or thereto, (ii) all references to Sections,

Articles or Schedules are to Sections, Articles or Schedules of or to this Agreement, (iii) each term defined in this Agreement has the meaning assigned to it, (iv) each accounting term not otherwise defined in this Agreement has the meaning assigned to it in accordance with GAAP, (v) "or" is disjunctive but not necessarily exclusive, (vi) words in the singular include the plural and vice versa, and (vii) the terms "affiliate" and "subsidiary" have the meanings given to them in Rule 12b-2 of Regulation 12B under the Exchange Act. All references to "$" or dollar amounts will be to lawful currency of the United States of America.

(b) No provision of this Agreement will be interpreted in favor of, or against, either of the parties hereto by reason of the extent to which either such party or its counsel participated in the drafting thereof or by reason of the extent to which any such provision is inconsistent with any prior draft hereof or thereof.

[The remainder of this page is intentionally left blank.]

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

STRATUS PROPERTIES INC.
(formerly known as FM Properties Inc.)

By:
Name:
Title:

OLY/STRATUS EQUITIES, L.P.

By: Oly Fund II GP Investments, L.P., its General Partner

By: Oly Real Estate Partners II, L.P., its General Partner

By: Oly REP II, L.P., its General Partner

By: Oly Fund II, LLC, its General Partner

By:
Name:
Title:

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Defined Terms

Exhibits

Schedules

NOTICE OF INDEMNIFICATION: THIS AGREEMENT CONTAINS INDEMNIFICATION PROVISIONS IN ARTICLE VI, NOTICE OF WHICH IS HEREBY GIVEN.

SECURITIES PURCHASE AGREEMENT

DATED AS OF MAY 22, 1998

BY AND BETWEEN

OLY/STRATUS EQUITIES, L.P.

AND

STRATUS PROPERTIES INC.

Exhibit 99.3

STATUS PROPERTIES INC. AND OLYMPUS REAL ESTATE CORPORATION COMPLETE FORMATION OF STRATEGIC ALLIANCE FOR REAL ESTATE ACQUISITION AND DEVELOPMENT ACTIVITIES

AUSTIN and DALLAS, TEXAS, May 26, 1998 - Stratus Properties Inc . (NASDAQ: STRS) and Olympus Real Estate Corporation (Olympus), an affiliate of Hicks, Muse, Tate & Furst Incorporated, announced today that they have completed the formation of their previously announced strategic alliance to develop certain of STRS' existing properties and to pursue new real estate acquisition and development opportunities. Under the terms of the agreements, Olympus has made a $10 million investment in STRS' mandatory redeemable preferred stock, provided a $10 million convertible debt financing facility to STRS and made available up to $50 million of capital for direct investment in joint STRS/Olympus projects.

Stratus Properties Inc., headquartered in Austin, Texas, is engaged in the development and marketing of real estate in the Austin, Dallas, Houston and San Antonio, Texas areas.

Olympus Real Estate Corporation is a leading private investment firm which invests in real estate equities, mortgages, securities and operating businesses on a global basis. Olympus was formed in 1994 by David B. Deniger as the real estate investment affiliate of Hicks, Muse, Tate & Furst Incorporated. Since the formation Olympus has completed nearly $3 billion in real estate investments, including numerous commercial, residential, hospitality and golf-related projects throughout the world.