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UNITED STATES
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

May 18, 2004
Date of Report (Date of earliest event reported)

FIRST INDUSTRIAL REALTY TRUST, INC.
(Exact name of registrant as specified in its charter)

Maryland (State or other jurisdiction of incorporation or organization)	1-13102 (Commission file number)	36-3935116 (I.R.S. Employer Identification No.)
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311 S. Wacker Drive, Suite 4000
Chicago, Illinois 60606
(Address of principal executive offices, zip code)

(312) 344-4300
(Registrant's telephone number, including area code)

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Item 7. Financial Statements and Exhibits

(c) Exhibits

Number	Description
- - - - -	- - - - -

- 1.1 Underwriting Agreement, dated May 18, 2004, relating to 50,000 depository shares, each representing 1/100 of a share of the Series F Flexible Cumulative Redeemable Preferred Stock (Five-Year Initial Fixed Rate Period), and 25,000 depository shares, each representing 1/100 of a share of the Series G Flexible Cumulative Redeemable Preferred Stock (Ten-Year Initial Fixed Rate Period), by and among Lehman Brothers Inc., Credit Suisse First Boston LLC, Wachovia Capital Markets, LLC and BB&T Capital Markets, a division of Scott & Stringfellow, Inc., First Industrial Realty Trust, Inc. (the "Company") and First Industrial, L.P. (the "Operating Partnership").
- 1.2 Remarketing Agreement, dated May 27, 2004, relating to 50,000 depository shares, each representing 1/100 of a share of the Series F Flexible Cumulative Redeemable Preferred Stock (Five-Year Initial Fixed Rate Period), by and among Lehman Brothers Inc., the Company and the Operating Partnership.
- 1.3 Remarketing Agreement, dated May 27, 2004, relating to 25,000 depository shares, each representing 1/100 of a share of the Series G Flexible Cumulative Redeemable Preferred Stock (Ten-Year Initial Fixed Rate Period), by and among Lehman Brothers Inc., the Company and the Operating Partnership.

SIGNATURES

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

FIRST INDUSTRIAL REALTY TRUST, INC.

By: /s/ Scott A. Musil

Name: Scott A. Musil
Title: Senior Vice President and
Controller

Date: May 27, 2004

First Industrial Realty Trust, Inc.

50,000 Shares

Depository Shares Each Representing 1/100 of a Share of
Series F Flexible Cumulative Redeemable Preferred Stock
(Five-Year Initial Fixed Rate Period)
(Liquidation Preference Equivalent to \$1,000 per Depository Share
of Series F Preferred Stock)

25,000 Shares

Depository Shares Each Representing 1/100 of a Share of
Series G Flexible Cumulative Redeemable Preferred Stock
(Ten-Year Initial Fixed Rate Period)
(Liquidation Preference Equivalent to \$1,000 per Depository Share
of Series G Preferred Stock)

Underwriting Agreement

May 18, 2004

LEHMAN BROTHERS INC.
CREDIT SUISSE FIRST BOSTON LLC
WACHOVIA CAPITAL MARKETS, LLC
BB&T CAPITAL MARKETS, A DIVISION OF SCOTT & STRINGFELLOW, INC.
c/o Lehman Brothers Inc.
745 Seventh Avenue
New York, New York 10019

Ladies and Gentlemen:

First Industrial Realty Trust, Inc., a Maryland Corporation (the "Company"), by this agreement (the "Agreement") proposes to issue and sell to the underwriters named in Schedule I hereto (collectively, the "Underwriters"), 50,000 depository shares (the "Series F Depository Shares"), each representing 1/100 of a share of the Series F Flexible Cumulative Redeemable Preferred Stock (Five-Year Initial Fixed Rate Period) (the "Series F Preferred Shares"), having a liquidation preference equivalent to \$1,000 per Series F Depository Share of the Company, and 25,000 depository shares (the "Series G Depository Shares," and together with the Series F Depository Shares, the "Depository Shares" or the "Securities"), each representing 1/100 of a share of the Series G Flexible Cumulative Redeemable Preferred Stock (Ten-Year Initial Fixed Rate Period) (the "Series G Preferred Shares," and together with the Series F Preferred Shares, the "Preferred Shares"), having a liquidation preference equivalent to \$1,000 per Series G Depository Share of the Company, to be issued under two deposit agreements, one pertaining to the Series F Preferred Shares and the second pertaining to the Series G Preferred Shares (together, the "Deposit Agreements"), each between the Company and Equiserve Trust Company, N.A., as Depository (the "Depository").

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The Company and First Industrial, L.P., a Delaware limited partnership whose sole general partner is the Company (the "Operating Partnership"), have prepared and filed with the Securities and Exchange Commission (the "Commission") in accordance with the provisions of the Securities Act of 1933, as amended, and the rules and regulations of the Commission thereunder (collectively, the "Securities Act"), a registration statement (file number 333-57992) on Form S-3, relating to certain securities (the "Shelf Securities") to be issued from time to time by the Company or the Operating Partnership, as the case may be. The Company also has filed, or proposes to file, with the Commission pursuant to Rule 424 under the Securities Act ("Rule 424") a prospectus supplement specifically relating to the Securities (a "Prospectus Supplement"). The registration statement as amended to the date of this Agreement and including any registration statement filed pursuant to Rule 462(b) under the Securities Act (a "Rule 462(b) Registration Statement") is hereinafter referred to as the "Registration Statement" and the related prospectus covering the Shelf Securities in the form first used to confirm sales of the Securities is hereinafter referred to as the "Base Prospectus." The Base Prospectus as supplemented by any applicable Prospectus Supplement specifically relating to the Securities in the form first used to confirm sales of the Securities is hereinafter referred to as the "Prospectus." Any reference in this Agreement to the Registration Statement, the Base Prospectus or any preliminary prospectus (a "preliminary prospectus"), as the case may be, previously filed with the Commission pursuant to Rule 424 or the Prospectus shall be deemed to refer to and include the documents incorporated by reference therein pursuant to Item 12

of Form S-3 under the Securities Act which were filed under the Securities Exchange Act of 1934, as amended, and the rules and regulations of the Commission thereunder (collectively, the "Exchange Act") on or before the date of this Agreement or the date of the Registration Statement, the Base Prospectus, any preliminary prospectus or the Prospectus, as the case may be; and any reference to "amend," "amendment" or "supplement" with respect to the Registration Statement, the Base Prospectus, any preliminary prospectus or the Prospectus shall be deemed to refer to and include any documents filed under the Exchange Act after the date of this Agreement, or the date of the Registration Statement, the Base Prospectus, any preliminary prospectus or the Prospectus, as the case may be, which are deemed to be incorporated by reference therein. All references in this Agreement to financial statements and schedules and other information which is "contained," "included," "described" or "stated" in the Registration Statement or the Prospectus (and all other references of like import) shall be deemed to mean and include all such financial statements and schedules and other information which is or is deemed to be incorporated by reference in the Registration Statement or Prospectus, as the case may be.

The Company hereby agrees with the Underwriters as follows:

1. The Company agrees to issue and sell the Securities to the several Underwriters as hereinafter provided, and each Underwriter, on the basis of the representations and warranties herein contained, but subject to the conditions hereinafter stated, agrees to purchase, severally and not jointly, from the Company the number of Securities set forth opposite such Underwriter's name in Schedule I hereto at a purchase price per Depositary Share of \$987.50 (the "Purchase Price") plus accrued dividends, if any, from the date specified in Schedule II hereto to the date of payment and delivery.

2. The Company understands that the several Underwriters intend (i) to make a public offering (the "Offering") of their respective portions of the Securities and (ii) initially to offer the Securities upon the terms set forth in the Prospectus.

3. Payment for the Securities shall be made to the Company or to its order in immediately available funds on the date and at the time and place set forth in Schedule II hereto in the section entitled "Closing Date and Time of Delivery" (or at such other time and place on the same or such other date, not later than the 7th Business Day thereafter, as you and the Company may agree in writing). Such payment will be made upon delivery to, or to you for the respective accounts of, the Underwriters of the Securities registered in such names and in such denominations as you shall request not less than two full Business

Days prior to the date of delivery, with any transfer taxes payable in connection with transfer to the Underwriters duly paid by the Company. As used herein, the term "Business Day" means any day other than a day on which banks are permitted or required to be closed in New York City or the City of Chicago. The time and date of such payment and delivery with respect to the Securities are referred to herein as the "Closing Date." The Securities will be delivered through the book entry facilities of The Depository Trust Company ("DTC") and will be made available for inspection by you by 1:00 P.M. New York City time two Business Days prior to the Closing Date at such place in New York City as you, DTC and the Company shall agree.

4. Each of the Company and the Operating Partnership severally covenants and agrees with the Underwriters as follows:

(a) In respect of the offering of the Securities, the Company will (i) prepare a Prospectus Supplement setting forth the number of Securities covered thereby and their terms not otherwise specified in the Base Prospectus pursuant to which the Securities are being issued, the names of the Underwriters participating in the offering and the number of Securities which each severally has agreed to purchase, the names of the Underwriters acting as co-managers in connection with the Offering, the price at which the Securities are to be purchased by the Underwriters from the Company, the initial public offering price, the selling concession and reallowance, if any, and such other information as the Underwriters and the Company deem appropriate in connection with the offering of the Securities, (ii) file the Prospectus in a form approved by you pursuant to Rule 424 under the Securities Act within the applicable time period prescribed by such rule for such filing and (iii) furnish copies of the Prospectus to the Underwriters and to such dealers as you shall specify in New York City prior to 10:00 A.M., New York City time as soon as practicable after the date of this Agreement in such quantities as you may reasonably request;

(b) At any time when the Prospectus is required to be delivered under the Securities Act or the Exchange Act in connection with sales of Securities, the Company will advise you promptly and, if requested by you, confirm such advice in writing, of (i) the effectiveness of any amendment to the Registration Statement (ii) the transmittal to the Commission for filing of any Prospectus or other supplement or amendment to the Prospectus to be filed pursuant to the Securities Act, (iii) the receipt of any comments from the Commission relating to the Registration Statement, any preliminary prospectus, the Prospectus or any of the transactions contemplated by this Agreement, (iv) any request by the Commission for post-effective amendments to the Registration Statement or amendments or supplements to the Prospectus or for additional information, (v) the issuance by the Commission of any stop order suspending the effectiveness of the Registration Statement or of the suspension of qualification of the Securities for offering or sale in any jurisdiction, or the initiation of any proceeding for such purposes, and (vi) the happening of any event which makes any statement of a material fact made in the Registration Statement or the Prospectus untrue or which requires the making of any additions to or changes in the Registration Statement or the Prospectus in order to make the statements therein not misleading. The Company will make every reasonable effort to prevent the issuance of any stop order and, if at any time the Commission shall issue any stop order suspending the effectiveness of the Registration Statement, the Company will make every reasonable effort to obtain the withdrawal or lifting of such order at the earliest possible time;

(c) The Company will furnish to you without charge, such number of conformed copies of the Registration Statement as first filed with the Commission and of each amendment to it, including all exhibits and documents incorporated by reference, as you may reasonably request. If applicable, the copies of the Registration Statement and each amendment thereto

furnished to the Underwriters will be identical to the electronically transmitted copies thereof filed with the Commission pursuant to EDGAR, except to the extent permitted by Regulation S-T;

(d) At any time when the Prospectus is required to be delivered under the Securities Act or the Exchange Act in connection with sales of Securities, not to file any amendment to the Registration Statement or any Rule 462(b) Registration Statement or to make any amendment or supplement to the Prospectus of which you shall not previously have been advised or to which you or counsel for the Underwriters shall reasonably object; and to prepare and file with the Commission, promptly upon your reasonable request, any amendment to the Registration Statement, Rule 462(b) Registration Statement or amendment or supplement to the Prospectus which, in the opinion of counsel for the Underwriters, may be necessary in connection with the distribution of the Securities by you, and to use its best efforts to cause the same to become promptly effective. If applicable, the Prospectus and any amendments or supplements thereto furnished to the Underwriters will be identical to the electronically transmitted copies thereof filed with the Commission pursuant to EDGAR, except to the extent permitted by Regulation S-T;

(e) If, at any time when the Prospectus is required to be delivered under the Securities Act or the Exchange Act in connection with sales of Securities, any event shall occur as a result of which, in the opinion of counsel for the Underwriters, it becomes necessary to amend or supplement the Prospectus in order to make the statements therein, in the light of the circumstances existing when the Prospectus is delivered to a purchaser, not misleading, or if it is necessary to amend or supplement the Prospectus to comply with any law, the Company will forthwith prepare and file with the Commission an appropriate amendment or supplement to the Prospectus (in form and substance reasonably satisfactory to counsel for the Underwriters) so that the statements in the Prospectus, as so amended or supplemented, will not contain an untrue statement of a material fact or omit to state a material fact necessary in order to make the statements therein, in the light of the circumstances existing when it is so delivered, not misleading, or so that the Prospectus will comply with any law, and to furnish to each Underwriter and to such dealers as you shall specify, such number of copies thereof as such Underwriter or dealers may reasonably request;

(f) The Company will use its best efforts, in cooperation with the Underwriters, to qualify, register or perfect exemptions for the Securities for offer and sale by the several Underwriters under the applicable state securities, Blue Sky and real estate syndication laws of such jurisdictions as you may reasonably request; provided, however, the Company will not be required to qualify as a foreign corporation, file a general consent to service of process in any such jurisdiction, subject itself to taxation in respect of doing business in any jurisdiction in which it is not otherwise so subject, or provide any undertaking or make any change in its charter or by-laws that the Board of Directors of the

Company reasonably determines to be contrary to the best interests of the Company and its stockholders. In each jurisdiction in which the Securities have been so qualified or registered, the Company will use all reasonable efforts to file such statements and reports as may be required by the laws of such jurisdiction, to continue such qualification or registration in effect for so long a period as the Underwriters may reasonably request for the distribution of the Securities and to file such consents to service of process or other documents as may be necessary in order to effect such qualification or registration; provided, however, the Company will not be required to qualify as a foreign corporation, file a general consent to service of process in any such jurisdiction, subject itself to taxation in respect of doing business in any jurisdiction in which it is not otherwise so subject, or provide any undertaking or make any change in its charter or by-laws that the Board of Directors of the Company reasonably determines to be contrary to the best interests of the Company and its stockholders;

(g) To make generally available to the Company's stockholders as soon as reasonably practicable but not later than sixty days after the close of the period covered thereby (90 days in the event the close of such period is the close of the Company's fiscal year), an earnings statement (in form complying with the provisions of Rule 158 of the Securities Act) covering a period of at least twelve months after the effective date of the Registration Statement (but in no event commencing later than 90 days after such date) which shall satisfy the provisions of Section 11(a) of the Securities Act, and, if required by Rule 158 of the Securities Act, to file such statement as an exhibit to the next periodic report required to be filed by the Company under the Exchange Act covering the period when such earnings statement is released;

(h) During the period when the Prospectus is required to be delivered under the Securities Act or the Exchange Act in connection with sales of the Securities, to file all documents required to be filed by it with the Commission pursuant to Section 13, 14 or 15 of the Exchange Act within the time periods required by the Exchange Act;

(i) The Company will pay all costs, expenses, fees and taxes incident to (i) the preparation, printing, filing and distribution under the Securities Act of the Registration Statement and any amendment thereto (including financial statements and exhibits), the Prospectus and all amendments and supplements to any of them prior to or during the period specified in Section 4(e), (ii) the printing and delivery of this Agreement, the Deposit Agreements, the remarketing agreement dated May 27, 2004 pertaining to the Series F Preferred Shares and the remarketing agreement dated May 27, 2004 pertaining to the Series G Preferred Shares (together, the "Remarketing Agreements"), the calculation agent agreement dated May 27, 2004 pertaining to the Series F Preferred Shares and the calculation agent agreement dated May 27, 2004 pertaining to the Series G Preferred Shares (together, the "Calculation Agent Agreements") and any Blue Sky Memorandum, (iii) the qualification or registration of the Securities for offer and sale under the state securities, Blue Sky or real estate syndication laws of the several states in accordance with Section 4(f) hereof, (iv) the fee of and the filings and clearance, if any, with the National Association of Securities Dealers, Inc. (the "NASD") in connection with the Offering, (v) the fees charged by nationally recognized statistical rating organizations for the rating of the Securities, (vi) furnishing such copies of the Registration Statement, the preliminary prospectus, the Prospectus and all amendments and supplements thereto as may be requested for use in connection with the offering or sale of the Securities by the Underwriters or by dealers to whom Securities may be sold, (vii) the costs and charges of any transfer agent or registrar, (viii) the cost and expenses of the Depositary under the Deposit Agreement, (ix) the preparation, issuance and delivery of certificates for the Securities to the Underwriters, (x) any expenses incurred by the Company in connection with a "road show" presentation to potential investors, (xi) any transfer taxes imposed on the sale by the Company of the Securities to the Underwriters and (xii) the fees and disbursements of the Company's counsel and accountants;

(j) The Company will use its best efforts to do and perform all things required to be done and performed under this Agreement by the Company prior to the Closing Date and to satisfy all conditions precedent to the delivery of the Securities;

(k) The Company will use the net proceeds received by it from the sale of the Securities in the manner specified in the Prospectus Supplement under "Use of Proceeds;"

(l) The Company will use its best efforts to continue to qualify as a real estate investment trust ("REIT") under Sections 856 through 860 of the Internal Revenue Code of 1986, as amended (the "Code"), unless the Company's board of trustees determines that it is no longer in the best interests of the Company to be so qualified;

(m) The Company will use its best efforts to take all reasonable action necessary to enable Standard & Poor's Corporation ("S&P") and Moody's Investors Services, Inc. ("Moody's") or any other nationally recognized rating organization to provide their respective credit ratings.

(n) The Company will not, at any time, directly or indirectly, take any action intended, or which might reasonably be expected to cause or result in, or which will constitute stabilization of the price of the Securities to facilitate the sale or resale of any Securities in violation of the Securities Act;

(o) The Company will cooperate with the Representatives and use commercially reasonable efforts to permit the Securities to be eligible for clearance and settlement through the facilities of DTC; and

(p) Prior to the Closing Date the Company will file articles supplementary pertaining to the Series F Preferred Shares (the "Series F Articles Supplementary") and articles supplementary pertaining to the Series G Preferred Shares (the "Series G Articles Supplementary") with the Maryland State Department of Assessments and Taxation establishing and fixing the rights and preferences of the Securities.

5. The Company and the Operating Partnership, jointly and severally, represent and warrant to each Underwriter as of the date hereof and the Closing Date that:

(a) The Company and the Operating Partnership meet the requirements for use of Form S-3, and the Registration Statement has been declared effective by the Commission;

(b) The Registration Statement and the Prospectus, including the financial statements, schedules and related notes included in the Prospectus as of the date hereof and at the time the Registration Statement became effective, and when any post-effective amendment to the Registration Statement or Rule 462(b) Registration Statement becomes effective or any amendment or supplement to the Prospectus is filed with the Commission, did or will comply in all material respects with all applicable provisions of the Securities Act and will contain all statements required to be stated therein in accordance with the Securities Act. The Prospectus, including the financial statements, schedules and related notes included or incorporated by reference in the Prospectus as of the date hereof and at the time the Registration Statement became effective, and at the Closing Date, and when any post-effective amendment to the Registration Statement or Rule 462(b) Registration Statement becomes effective or any amendment or supplement to the Prospectus is filed with the Commission, did or will comply in all material respects with all applicable provisions of the Securities Act and will contain all statements required to be stated therein in accordance with the Securities Act. On the date the Registration Statement was declared effective, on the date hereof, on the date of filing of any Rule 462(b) Registration Statement and on the Closing Date no part of the Registration Statement or any amendment did or will contain an untrue statement of a material fact or omit to

state a material fact required to be stated therein or necessary in order to make the statements therein not misleading. On the date the Registration Statement was declared effective, on the date hereof, as of its date, on the date of filing of any Rule 462(b) Registration Statement and at the Closing Date, the Prospectus did not and will not contain an untrue statement of a material fact or omit to state a material fact necessary to make the statements therein, in light of the circumstances under which they were made, not misleading. If a Rule 462(b) Registration Statement is filed in connection with the offering and sale of the Securities, the Company and the Operating Partnership will have complied or will comply with the requirements of Rule 111 under the Securities Act relating to the payment of filing fees therefor. The foregoing representations and warranties in this Section 5(b) do not apply to any statements or omissions made in reliance on and in conformity with information relating to any Underwriter furnished in writing to the Company or the Operating Partnership by the Underwriters specifically for inclusion in the Registration Statement or Prospectus or any amendment or supplement thereto. Neither the Company nor the Operating Partnership has distributed, and prior to the later of the Closing Date and the completion of the distribution of the Securities, will not distribute, any offering material in connection with the offering or sale of the Securities other than the Registration Statement, the preliminary prospectus, the Prospectus or any other materials, if any, permitted by the Securities Act (which were disclosed to the Underwriters and the Underwriters' counsel).

(c) Any preliminary prospectus supplements, filed pursuant to Rule 424 under the Securities Act and each 462(b) Registration Statement, if any, complied or will comply when so filed in all material respects with all applicable provisions of the Securities Act; did not contain an untrue statement of a material fact or omit to state a material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading; each preliminary prospectus and the Prospectus delivered to the Underwriters for use in connection with the offering of Securities will, at the time of such delivery, be identical to the electronically transmitted copies thereof filed with the Commission pursuant to EDGAR, except to the extent permitted by Regulation S-T;

(d) The documents incorporated or deemed to be incorporated by reference in the Prospectus pursuant to Item 12 of Form S-3 under the Securities Act, at the time they were, or hereafter are, filed with the Commission, complied and will comply in all material respects with the requirements of the Exchange Act, and, when read together with other information included in, and incorporated by reference in, the Prospectus, at the time the Registration Statement became effective, as of the date of the Prospectus and as of the Closing Date, or during the period specified in Section 4(e) did not and will not include an untrue statement of a material fact or omit to state a material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading. The foregoing representations and warranties in this Section 5(d) do not apply to any statements or omissions made in reliance on and in conformity with information relating to any Underwriter furnished in writing to the Company or the Operating Partnership by the Underwriters specifically for inclusion in the Registration Statement or Prospectus or any amendment or supplement thereto;

(e) The Company has been duly organized and is validly existing as a corporation under and by virtue of the laws of the State of Maryland, and is in good standing with the State Department of Assessments and Taxation of Maryland. The Operating Partnership has been duly organized and is validly existing as a limited partnership in good standing under and by virtue of the Delaware Revised Uniform Limited Partnership Act. Each of First Industrial Financing Partnership, L.P. (the "Financing Partnership"), First Industrial Securities, L.P. ("Securities, L.P."), First Industrial Mortgage Partnership, L.P. (the "Mortgage Partnership") and First Industrial Pennsylvania, L.P. ("FIP"), First Industrial Harrisburg, L.P. ("FIH") and First Industrial Indianapolis, L.P. ("FII") (the Financing Partnership, Securities, L.P., the Mortgage Partnership, FIH, FII and FIP are referred to collectively herein as the "Partnership Subsidiaries") has been duly organized and is validly existing as a limited partnership in good standing under and by virtue of the laws of its jurisdiction of organization. First Industrial Alrai, LLC ("FIA") has been

duly organized and is validly existing as a limited liability company in good standing under and by virtue of the laws of its jurisdiction of organization. Each of First Industrial Securities Corporation ("FISC"), First Industrial Indianapolis Corporation ("FIIC"), First Industrial Finance Corporation ("FIFC"), First Industrial Mortgage Corporation ("FIMC"), First Industrial Development Services, Inc. ("FIDSI") and First Industrial Pennsylvania Corporation ("FIPC"), (FISC, FIIC, FIFC, FIMC, FIDSI and FIPC are referred to collectively herein as the "Corporate Subsidiaries," and the Partnership Subsidiaries and the Corporate Subsidiaries are referred to herein collectively as the "Subsidiaries" or individually as a "Subsidiary"), has been duly organized and is validly existing as a corporation in good standing under and by virtue of the laws of its jurisdiction of incorporation. Other than the Corporate Subsidiaries and the Partnership Subsidiaries, no entities in which the Company owns any equity securities constitute, individually or in the aggregate, a "significant subsidiary" under Rule 1-02 of Regulation S-X promulgated under the Exchange Act. The Company is the sole general partner of the Operating Partnership. FIFC is a wholly-owned subsidiary of the Company and is the sole general partner of the Financing Partnership. FIM is a wholly-owned subsidiary of the Company and is the sole general partner of the Mortgage Partnership. FISC is a wholly-owned subsidiary of the Company and is the sole general partner of Securities, L.P. The Operating Partnership and FISC are the only limited partners of Securities, L.P. FIPC is a wholly-owned subsidiary of the Company and is the sole general partner of FIP. FIIC is a wholly-owned subsidiary of the Company and is the sole general partner of FII. FIHC is a wholly-owned subsidiary of the Company and is the sole general partner of FIH. FIDSI is a wholly-owned subsidiary of the Operating Partnership. The Operating Partnership is the sole limited partner of each Partnership Subsidiary (except for Securities, L.P.). The Company, the Operating Partnership and each of the Subsidiaries has, and at the Closing Date will have, full corporate, partnership or limited liability company power and authority, as the case may be, to conduct all the activities conducted by it, to own, lease or operate all the properties and other assets owned, leased or operated by it and to conduct its business in which it engages or proposes to engage as described in the Prospectus and the transactions contemplated hereby and thereby. The Company and each of the Corporate Subsidiaries is, and at the Closing Date will be, duly qualified or registered to do business and in good standing as a foreign corporation in all jurisdictions in which the nature of the activities conducted by it or the character of the properties and assets owned, leased or operated by it makes such qualification or registration necessary, except where failure to obtain such qualifications or registration will not have a material adverse effect on (i) the condition, financial or otherwise, or the earnings, assets or business affairs or prospects of the Operating Partnership, Company and their Subsidiaries, taken as a whole or on the 825 in service properties owned, directly or indirectly, by the Company as of March 31, 2004 (the "Properties") taken as a whole, (ii) the issuance, validity or enforceability of the Securities or (iii) the consummation of any of the transactions contemplated by this Agreement (each a "Material Adverse Effect"), which jurisdictions of foreign qualification or registration are identified in Schedule III hereto. The Operating Partnership and each of the Partnership Subsidiaries is, and at the Closing Date will be, duly qualified or registered to do business and in good standing as a foreign limited partnership in all jurisdictions in which the nature of the activities conducted by it or the character of the assets owned, leased or operated by it makes such qualification or registration necessary, except where failure to obtain such qualification or registration will not have a Material Adverse Effect, which jurisdictions of foreign qualification or registration are identified in Schedule III hereto. Complete and correct copies of the articles of incorporation and of the by-laws of the Company, the certificate of limited partnership and agreement of limited partnership of the Operating Partnership and the charter documents, partnership agreements and other organizational documents of the Subsidiaries and all amendments thereto as have been requested by the Underwriters or their counsel have been delivered to the Underwriters or their counsel;

(f) The Company's authorized capitalization consists of 10,000,000 shares of preferred stock, par value \$.01 per share, 100,000,000 shares of common stock, par value \$.01 per share, and 65,000,000 shares of excess stock, par value \$.01 per share. All of the Company's issued and outstanding shares of common stock and preferred stock have been duly authorized and are validly issued, fully paid and non-assessable and will have been offered and sold in compliance, in all material respects, with all applicable laws (including, without limitation, federal or state securities laws). The Securities have been duly authorized for issuance and sale to the Underwriters pursuant to this Agreement and, when validly issued and delivered pursuant to this Agreement against payment of the Purchase Price, will be duly authorized, validly issued, fully paid and non-assessable and will not be subject to any preemptive or similar right and will have been offered and sold in compliance, in all material respects, with all applicable laws (including, without limitation, federal or state securities laws). The description of the Securities, and the statements related thereto, contained in the Registration Statement or the Prospectus are, and at the Closing Date, will be, complete and accurate in all material respects. Upon payment of the Purchase Price and delivery of certificates representing the Securities in accordance herewith, each of the Underwriters will receive good, valid and marketable title to the Securities, free and clear of all security interests, mortgages, pledges, liens, encumbrances, claims and equities. The form of depositary receipts to be used to evidence the Securities will be in due and proper form and will comply, in all material respects, with all applicable legal requirements. No shares of common or preferred stock of the Company are reserved for any purpose other than securities to be issued pursuant to this Agreement and except as disclosed in the Prospectus.

(g) As of the Closing Date, the partnership agreement of the Operating Partnership will have been duly authorized, executed and delivered by the Company, as general partner and a limited partner and the partnership agreement of each Partnership Subsidiary will have been duly authorized, validly executed and delivered by each partner thereto and (assuming in the case of the Operating Partnership the due authorization, execution and delivery of the partnership agreement by each limited partner other than the Company) each such partnership agreement will be a valid, legally binding and enforceable in accordance with its terms immediately following the Closing Date subject to (i) the effect of bankruptcy, insolvency, fraudulent conveyance, reorganization, moratorium or other similar laws now or hereafter in effect relating to or affecting the rights and remedies of creditors and (ii) the effect of general principles of equity, whether enforcement is considered in a proceeding in equity or at law, and the discretion of the court before which any proceeding therefor may be brought. All of the issued and outstanding shares of capital stock of the Company and each Corporate Subsidiary, all of the outstanding units of general, limited and/or preferred partner interests of the Operating Partnership and each Partnership Subsidiary will have been duly authorized and are validly issued, fully paid and non-assessable; and (except as described in the Prospectus) will be owned directly or indirectly (except in the case of the Company) by the Company or the Operating Partnership, as the case may be, free and clear of all security interests, liens and encumbrances (except for pledges in connection with the loan agreements of the Company, the Operating Partnership and the Subsidiaries), and all of the partnership interests in each Partnership Subsidiary will have been duly authorized and are validly issued, fully paid, and (except as described in the Prospectus) will be owned directly or indirectly by the Company or the Operating Partnership, free and clear of all security interests, liens and encumbrances (except for pledges in connection with the loan agreements of the Company, the Operating Partnership and the Subsidiaries);

(h) The financial statements, supporting schedules and related notes included in, or incorporated by reference in, the Registration Statement and the Prospectus comply in all material respects with the requirements of the Securities Act and the Exchange Act, as applicable, and present fairly the consolidated financial condition of the entity or entities or group presented or

included therein, as of the respective dates thereof, and its consolidated results of operations and cash flows for the respective periods covered thereby, are all in conformity with generally accepted accounting principles applied on a consistent basis throughout the entire period involved, except as otherwise disclosed in the Prospectus. The financial information and data included in the Registration Statement and the Prospectus present fairly the information included or incorporated by reference therein and have been prepared on a basis consistent, except as may be noted therein, with that of the financial statements, schedules and notes included or incorporated by reference in the Registration Statement and the Prospectus and the books and records of the respective entity or entities or group presented or included therein. Except as otherwise noted in the Prospectus, pro forma and/or as adjusted financial information included or incorporated by reference in the Prospectus has been prepared in accordance with the applicable requirements of the Securities Act and the American Institute of Certified Public Accountants ("AICPA") guidelines with respect to pro forma and as adjusted financial information, and includes all adjustments necessary to present fairly the pro forma and/or as adjusted financial condition of the entity or entities or group presented or included therein at the respective dates indicated and the results of operations and cash flows for the respective periods specified. The Company's and the Operating Partnership's ratio of combined fixed charges and preferred stock dividends to earnings included in the Prospectus and in Exhibit 12 to the Registration Statement have been calculated in compliance with Item 503(d) of Regulation S-K of the Commission. No other financial statements (or schedules) of the Company, the Operating Partnership and the Partnership Subsidiaries or any predecessor of the Company and/or the Operating Partnership and the Partnership Subsidiaries are required by the Act or the Exchange Act to be included in the Registration Statement or the Prospectus. PricewaterhouseCoopers LLP (the "Accountants") who have reported on such financial statements, schedules and related notes, are independent public accountants with respect to the Company, the Operating Partnership and the Partnership Subsidiaries as required by the Securities Act;

(i) Subsequent to the respective dates as of which information is given in the Registration Statement and the Prospectus and prior to the Closing Date, (i) there has not been and will not have been, except as set forth in or contemplated by the Registration Statement and the Prospectus, any change in the capitalization, long term or short term debt or in the capital stock or equity of each of the Company, the Operating Partnership or any of the Subsidiaries which would be material to the Company, the Operating Partnership and the Subsidiaries considered as one enterprise (anything which would be material to the Operating Partnership, the Company and the Subsidiaries, considered as one enterprise, being hereinafter referred to as "Material"), (ii) except as described in the Prospectus, neither the Operating Partnership, the Company nor any of the Subsidiaries has incurred nor will any of them incur any liabilities or obligations, direct or contingent, which would be Material, nor has any of them entered into nor will any of them enter into any transactions, other than pursuant to this Agreement and the transactions referred to herein or as contemplated in the Prospectus, which would be Material, (iii) there has not been any Material Adverse Effect, (iv) except for regular quarterly distributions on the Company's shares of common stock, par value \$0.01 per share (the "Common Stock"), and the dividends on the shares of the Company's (a) Depositary Shares each representing 1/100 of a share of 8% Series C Cumulative Preferred Stock (the "Series C Preferred Stock"), (b) Depositary Shares each representing 1/100 of a share of 7.95% Series D Cumulative Preferred Stock (the "Series D Preferred Stock") and (d) Depositary Shares each representing 1/100 of a share of 7.90% Series E Cumulative Preferred Stock (the "Series E Preferred Stock"), the Company has not paid or declared and will not pay or declare any dividends or other distributions of any kind on any class of its capital stock, and (v) except for distributions in connection with regular quarterly distributions on partnership units, the Operating Partnership has not paid any distributions of any kind on its partnership units;

(j) Neither the Company, the Operating Partnership nor any of the Subsidiaries is, or as of the Closing Date will be, required to be registered under the Investment Company Act of 1940, as amended (the "1940 Act");

(k) To the knowledge of the Company or the Operating Partnership, after due inquiry, except as set forth in the Registration Statement and the Prospectus, there are no actions, suits, proceedings, investigations or inquiries, pending or, after due inquiry, threatened against or affecting the Operating Partnership, the Company or any of the Subsidiaries or any of their respective officers or directors in their capacity as such or of which any of their respective properties or assets or any Property is the subject or bound, before or by any Federal or state court, commission, regulatory body, administrative agency or other governmental body, domestic or foreign, wherein an unfavorable ruling, decision or finding would reasonably be expected to have a Material Adverse Effect;

(l) The Company, the Operating Partnership and each of the Subsidiaries (i) has, and at the Closing Date will have, (A) all governmental licenses, permits, consents, orders, approvals and other authorizations necessary to carry on its business as contemplated in the Prospectus and are in material compliance with such, and (B) complied in all material respects with all laws, regulations and orders applicable to it or its business and (ii) are not, and at the Closing Date will not be, in breach of or default in the performance or observance of any obligation, agreement, covenant or condition contained in any indenture, mortgage, deed of trust, voting trust agreement, loan agreement, bond, debenture, note agreement, lease, contract, joint venture or partnership agreement or other agreement or instrument (collectively, a "Contract or Other Agreement") or under any applicable law, rule, order, administrative regulation or administrative or court decree to which it is a party or by which any of its other assets or properties or by which the Properties are bound or affected, except where such default, breach or failure will not, either singly or in the aggregate, have a Material Adverse Effect. To the knowledge of the Operating Partnership, the Company and each of the Subsidiaries, after due inquiry, no other party under any Material contract or other agreement to which it is a party is in default thereunder, except where such default will not have a Material Adverse Effect. Neither the Operating Partnership, the Company nor any of the Subsidiaries is, nor at the Closing Date will any of them be, in violation of any provision of its articles of incorporation, by-laws, certificate of limited partnership, partnership agreement or other organizational document, as the case may be;

(m) No Material consent, approval, authorization or order of, or any filing or declaration with, any court or governmental agency or body or any other entity is required in connection with the offering, issuance or sale of the Securities hereunder except such as have been obtained under the Securities Act, the Exchange Act and such as may be required under state securities, Blue Sky or real estate syndication laws or the by-laws, the corporate financing rule or the conflict of interests rule of the NASD in connection with the purchase and distribution by the Underwriters of the Securities or such as have been received prior to the date of this Agreement, and except for the filing of this Agreement and the form of Securities with the Commission as exhibits to a Form 8-K, which the Company agrees to make in a timely manner;

(n) The Company and the Operating Partnership have full corporate or partnership power, as the case may be, to enter into each of this Agreement, the Deposit Agreements, the Remarketing Agreements and the Calculation Agent Agreements and to execute, deliver and file the Series F Articles Supplementary and the Series G Articles Supplementary, to the extent each is a party thereto. Each of this Agreement, the Deposit Agreements, the Remarketing Agreements and the Calculation Agent Agreements has been duly and validly authorized, executed and delivered by the Company and the Operating Partnership, to the extent a party

thereto, constitutes a valid and binding agreement of the Company and the Operating Partnership, and assuming due authorization, execution and delivery by the Underwriters, and is enforceable against the Operating Partnership in accordance with the terms hereof and thereof, subject to (i) the effect of bankruptcy, insolvency, fraudulent conveyance, reorganization, moratorium or other similar laws now or hereafter in effect relating to or affecting the rights and remedies of creditors and (ii) the effect of general principles of equity, whether enforcement is considered in a proceeding in equity or at law, and the discretion of the court before which any proceeding therefor may be brought. The execution, delivery and performance of this Agreement, the Series F Articles Supplementary, the Series G Articles Supplementary, the Deposit Agreements, the Remarketing Agreements and the Calculation Agent Agreements, and the consummation of the transactions contemplated hereby, and compliance by each of the Company, the Operating Partnership and the Subsidiaries with its obligations hereunder to the extent each is a party thereto, will not result in the creation or imposition of any lien, charge or encumbrance upon any of the assets or properties of the Operating Partnership, the Company or any of the Subsidiaries pursuant to the terms or provisions of, or result in a breach or violation of any of the terms or provisions of, or constitute a default under, or give any other party a right to terminate any of its obligations under, or result in the acceleration of any obligation under, the certificate of incorporation, by-laws, certificate of limited partnership, partnership agreement or other organizational documents of the Operating Partnership, the Company or any of the Subsidiaries, any Contract or Other Agreement to which the Company, the Operating Partnership or any of the Subsidiaries is a party or by which the Company, the Operating Partnership or any of the Subsidiaries or any of their assets or properties are bound or affected, or violate or conflict with any judgment, ruling, decree, order, statute, rule or regulation of any court or other governmental agency (foreign or domestic) or body applicable to the business or properties of the Operating Partnership, the Company or any of the Subsidiaries or to the Properties, in each case except for liens, charges, encumbrances, breaches, violations, defaults, rights to terminate or accelerate obligations, or conflicts, the imposition or occurrence of which would not have a Material Adverse Effect;

(o) As of the Closing Date, the Company, the Operating Partnership and each of the Subsidiaries will have good and marketable title to all properties and assets described in the Prospectus as owned by it, free and clear of all liens, encumbrances, claims, security interests and defects, except such as are described in the Registration Statement or the Prospectus, or such as secure the loan facilities of the Operating Partnership, the Company and the Subsidiaries, or would not result in a Material Adverse Effect;

(p) Each of the Deposit Agreements, the Remarketing Agreements and the Calculation Agent Agreements have been duly authorized by the Company and, at the Closing Date, will have been duly executed and delivered by the Company, and, assuming due authorization, execution and delivery of the Deposit Agreements, the Remarketing Agreements and the Calculation Agent Agreements by the other respective parties thereto, each of the Deposit Agreements, the Remarketing Agreements and the Calculation Agent Agreements will, at the Closing Date, constitute a valid and binding obligation of the Company, enforceable against the Company in accordance with their respective terms (except to the extent that enforcement thereof may be limited by (i) the effect of bankruptcy, insolvency, fraudulent conveyance, reorganization, moratorium or other similar laws now or hereafter in effect relating to or affecting the rights and remedies of creditors and (ii) the effect of general principles of equity, whether enforcement is considered in a proceeding in equity or at law, and the discretion of the court before which any proceeding therefor may be brought), and each of the Deposit Agreements, the Remarketing Agreements and the Calculation Agent Agreements will conform in all material respects to all statements relating thereto contained in the Prospectus;

(q) To the knowledge of the Company: (i) no lessee of any portion of the Properties is in default under any of the leases governing such Properties and there is no event which, but for the passage of time or the giving of notice, or both, would constitute a default under any of such leases, except in each case such defaults that would not have a Material Adverse Effect; (ii) the current use and occupancy of each of the Properties complies in all material respects with all applicable codes and zoning laws and regulations, except for such failures to comply which would not individually or in the aggregate have a Material Adverse Effect; and (iii) there is no pending or threatened condemnation, zoning change, environmental or other proceeding or action that will in any material respect affect the size of, use of, improvements on, construction on, or access to the Properties except such proceedings or actions that would not have a Material Adverse Effect;

(r) The Operating Partnership, the Company and the Partnership Subsidiaries have property, title, casualty and liability insurance in favor of the Operating Partnership, the Company or the Partnership Subsidiaries with respect to each of the Properties, in an amount and on such terms as is reasonable and customary for businesses of the type conducted by the Operating Partnership, the Company and the Partnership Subsidiaries except in such instances where the tenant is carrying such insurance or the tenant is self-insuring such risks;

(s) Except as disclosed in the Prospectus, and, except for activities, conditions, circumstances or matters that would not have a Material Adverse Effect; (i) to the knowledge of the Company and the Subsidiaries, after due inquiry, the operations of the Operating Partnership, the Company and the Subsidiaries are in compliance with all Environmental Laws (as defined below) and all requirements of applicable permits, licenses, approvals and other authorizations issued pursuant to Environmental Laws; (ii) to the knowledge of the Operating Partnership, the Company and the Subsidiaries, after due inquiry, none of the Operating Partnership, the Company or the Subsidiaries has caused or suffered to occur any Release (as defined below) of any Hazardous Substance (as defined below) into the Environment (as defined below) on, in, under or from any Property, and no condition exists on, in, under or adjacent to any Property that could reasonably be expected to result in the incurrence of liabilities under, or any violations of, any Environmental Law or give rise to the imposition of any Lien (as defined below), under any Environmental Law; (iii) none of the Operating Partnership, the Company or the Subsidiaries has received any written notice of a claim under or pursuant to any Environmental Law or under common law pertaining to Hazardous Substances on, in, under or originating from any Property; (iv) none of the Operating Partnership, the Company or the Subsidiaries has actual knowledge of, or received any written notice from any Governmental Authority (as defined below) claiming, any violation of any Environmental Law or a determination to undertake and/or request the investigation, remediation, clean-up or removal of any Hazardous Substance released into the Environment on, in, under or from any Property; and (v) no Property is included or, to the knowledge of the Operating Partnership, the Company or the Subsidiaries, after due inquiry, proposed for inclusion on the National Priorities List issued pursuant to CERCLA (as defined below) by the United States Environmental Protection Agency (the "EPA"), or included on the Comprehensive Environmental Response, Compensation, and Liability Information System database maintained by the EPA, and none of the Operating Partnership, the Company or the Subsidiaries has actual knowledge that any Property has otherwise been identified in a published writing by the EPA as a potential CERCLA removal, remedial or response site or, to the knowledge of the Company and its Subsidiaries, is included on any similar list of potentially contaminated sites pursuant to any other Environmental Law;

As used herein, "Hazardous Substance" shall include any hazardous substance, hazardous waste, toxic substance, pollutant or hazardous material, including, without limitation, oil,

petroleum or any petroleum-derived substance or waste, asbestos or asbestos-containing materials, PCB's, pesticides, explosives, radioactive materials, dioxins, urea formaldehyde insulation or any constituent of any such substance, pollutant or waste which is subject to regulation under any Environmental Law (including, without limitation, materials listed in the United States Department of Transportation Optional Hazardous Material Table, 49 C.F.R. ss. 172.101, or in the EPA's List of Hazardous Substances and Reportable Quantities, 40 C.F.R. Part 302); "Environment" shall mean any surface water, drinking water, ground water, land surface, subsurface strata, river sediment, buildings, structures, and ambient, workplace and indoor and outdoor air; "Environmental Law" shall mean the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (42 U.S.C. ss. 9601 et seq.) ("CERCLA"), the Resource Conservation and Recovery Act of 1976, as amended (42 U.S.C. ss. 6901, et seq.), the Clean Air Act, as amended (42 U.S.C. ss. 7401, et seq.), the Clean Water Act, as amended (33 U.S.C. ss. 1251, et seq.), the Toxic Substances Control Act, as amended (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 Hazardous Materials Transportation Act, as amended (49 U.S.C. ss. 1801, et seq.), and all other federal, state and local laws, ordinances, regulations, rules and orders relating to the protection of the environment or of human health from environmental effects; "Governmental Authority" shall mean any federal, state or local governmental office, agency or authority having the duty or authority to promulgate, implement or enforce any Environmental Law; "Lien" shall mean, with respect to any Property, any mortgage, deed of trust, pledge, security interest, lien, encumbrance, penalty, fine, charge, assessment, judgment or other liability in, on or affecting such Property; and "Release" shall mean any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, emanating or disposing of any Hazardous Substance into the Environment, including, without limitation, the abandonment or discard of barrels, containers, tanks (including, without limitation, underground storage tanks) or other receptacles containing or previously containing and containing a residue of any Hazardous Substance.

None of the environmental consultants which prepared environmental and asbestos inspection reports with respect to any of the Properties was employed for such purpose on a contingent basis or has any substantial interest in the Operating Partnership, the Company or any of the Subsidiaries, and none of them nor any of their directors, officers or employees is connected with the Operating Partnership, the Company or any of the Subsidiaries as a promoter, selling agent, voting trustee, director, officer or employee.

(t) The Company, the Operating Partnership and the Subsidiaries are organized and operate in a manner so that the Company qualifies as a REIT under Sections 856 through 860 of the Code and the Company has elected to be taxed as a REIT under the Code commencing with the taxable year ended December 31, 1994. The Company, the Operating Partnership and the Subsidiaries intend to continue to be organized and operate so that the Company shall qualify as a REIT for the foreseeable future, unless the Company's board of trustees determines that it is no longer in the best interests of the Company to be so qualified;

(u) There is no material document or contract of a character required to be described or referred to in the Registration Statement or the Prospectus or to be filed as an exhibit to the Registration Statement which is not described or filed as required therein, except for the filing of this Agreement, the Deposit Agreements, the Remarketing Agreements, the Calculation Agent Agreements and the form of Securities with the Commission as exhibits to a Form 8-K, which the Company agrees to make in a timely manner, and the descriptions thereof or references thereto are accurate in all material respects;

(v) None of the Operating Partnership, the Company or any of the Subsidiaries is involved in any labor dispute nor, to the knowledge of the Operating Partnership, the Company or the Subsidiaries, after due inquiry, is any such dispute threatened which would be Material;

(w) The Operating Partnership, the Company and the Subsidiaries own, or are licensed or otherwise have the full exclusive right to use, all material trademarks and trade names which are used in or necessary for the conduct of their respective businesses as described in the Prospectus. To the knowledge of the Company or the Operating Partnership, no claims have been asserted by any person to the use of any such trademarks or trade names or challenging or questioning the validity or effectiveness of any such trademark or trade name. The use, in connection with the business and operations of the Operating Partnership, the Company and the Subsidiaries, of such trademarks and trade names does not, to the Company's or the Operating Partnership's knowledge, infringe on the rights of any person;

(x) Each of the Operating Partnership, the Company and the Subsidiaries has filed all federal, state, local and foreign income tax returns which have been required to be filed (except in any case in which the failure to so file would not result in a Material Adverse Effect) and has paid all taxes required to be paid and any other assessment, fine or penalty levied against it, to the extent that any of the foregoing would otherwise be delinquent, except, in all cases, for any such tax, assessment, fine or penalty that is being contested in good faith and except in any case in which the failure to so pay would not result in a Material Adverse Effect;

(y) The Operating Partnership and each of the Partnership Subsidiaries is properly treated as a partnership for U.S. federal income tax purposes and not as a "publicly traded partnership;"

(z) No relationship, direct or indirect, exists between or among the Company, the Operating Partnership or the Subsidiaries on the one hand, and the directors, officers, stockholders, customers or suppliers of the Company, the Operating Partnership or the Subsidiaries on the other hand, which is required by the Securities Act to be described in the Registration Statement and the Prospectus which is not so described;

(aa) The Company has not taken and will not take, directly or indirectly, any action designed to, or that might be reasonably expected to, cause or result in stabilization or manipulation of the price of the Securities, and the Company and the Operating Partnership have not distributed and have agreed not to distribute any prospectus or other offering material in connection with the offering and sale of the Securities other than the Prospectus, any preliminary prospectus filed with the Commission or other material permitted by the Securities Act (which were disclosed to you and your counsel);

(bb) The Company maintains a system of internal accounting controls sufficient to provide reasonable assurances that (i) transactions are executed in accordance with management's general or specific authorization; (ii) transactions are recorded as necessary to permit preparation of financial statements in conformity with generally accepted accounting principles and to maintain accountability for assets; (iii) access to assets, financial and corporate books and records is permitted only in accordance with management's general or specific authorization; and (iv) the recorded accountability for assets is compared with existing assets at reasonable intervals and appropriate action is taken with respect to any differences;

(cc) Any certificate or other document signed by any officer or authorized representative of the Operating Partnership, the Company or any Subsidiary, and delivered to the

Underwriters or to counsel for the Underwriters in connection with the sale of the Securities shall be deemed a representation and warranty by such entity or person, as the case may be, to each Underwriter as to the matters covered thereby;

(dd) The Securities will have an investment grade rating from one or more nationally recognized statistical rating organizations as specified in Schedule II hereto; and

(ee) The Registration Statement has been declared effective by the Commission under the Securities Act; no stop order suspending the effectiveness of the Registration Statement or any part thereof has been issued and no proceeding for that purpose has been instituted, or to the knowledge of the Company or the Operating Partnership, threatened by the Commission or by the state securities authority of any jurisdiction. No order preventing or suspending the use of the Prospectus or any preliminary prospectus has been issued and no proceeding for that purpose has been instituted or, to the knowledge of the Company, threatened by the Commission or by the state securities authority of any jurisdiction.

6. The Company and the Operating Partnership, jointly and severally, agree to indemnify and hold harmless each Underwriter and each person, if any, who controls any Underwriter within the meaning of either Section 15 of the Securities Act or Section 20(a) of the Exchange Act, from and against any and all losses, claims, damages and liabilities (including without limitation the legal fees and other expenses incurred in connection with any suit, action or proceeding or any claim asserted) caused by any untrue statement or alleged untrue statement of a material fact contained in the Registration Statement or the Prospectus (as amended or supplemented if the Company or the Operating Partnership shall have furnished any amendments or supplements thereto) or any preliminary prospectus, or caused by any omission or alleged omission to state therein a material fact required to be stated therein or necessary to make the statements therein not misleading, except insofar as such losses, claims, damages or liabilities are caused by any untrue statement or omission or alleged untrue statement or omission made in reliance upon and in conformity with information relating to any Underwriter furnished to the Company or the Operating Partnership in writing by such Underwriter through you expressly for use therein; provided, that the foregoing indemnity with respect to any preliminary prospectus shall not inure to the benefit of any Underwriter (or to the benefit of the person controlling such Underwriter) from whom the person asserting any such losses, claims, damages or liabilities purchased Securities if such untrue statement or omission or alleged untrue statement or omission made in such preliminary prospectus or preliminary prospectus supplement that was the cause of such losses, claims, damages or liabilities, is eliminated or remedied in the Prospectus (as amended or supplemented if the Company or the Operating Partnership shall have furnished any amendments or supplements thereto) and, if required by law, a copy of the Prospectus (as so amended or supplemented) shall not have been furnished to such person at or prior to the written confirmation of the sale of such Securities to such person, provided further that the Company and the Operating Partnership shall have complied with their obligations under Section 4(a) hereof with respect to the Prospectus (as so amended or supplemented).. The foregoing indemnity agreement shall be in addition to any liability which the Company may otherwise have.

Each Underwriter agrees, severally and not jointly, to indemnify and hold harmless the Company and the Operating Partnership, and the Company's and the Operating Partnership's officers and directors and each person who controls the Company or the Operating Partnership within the meaning of Section 15 of the Securities Act and Section 20(a) of the Exchange Act, to the same extent as the foregoing indemnity from the Company and the Operating Partnership to each Underwriter, but only with reference to information relating to such Underwriter furnished to the Company and the Operating Partnership in writing by such Underwriter through you expressly for use in the

Registration Statement, the Prospectus, any amendment or supplement thereto. For purposes of this Section 6 and Section 5(b), the only written information furnished by the Underwriters to the Company expressly for use in the Registration Statement and the Prospectus Supplement is the information in the fourth (excepting the first and second sentences of such paragraph), seventh, eighth and ninth paragraphs under the caption "Underwriting."

If any suit, action, proceeding (including any governmental or regulatory investigation), claim or demand shall be brought or asserted against any person in respect of which indemnity may be sought pursuant to either of the two preceding paragraphs, such person (the "Indemnified Person") shall promptly notify the person against whom such indemnity may be sought (the "Indemnifying Person") in writing, and the Indemnifying Person, upon request of the Indemnified Person, shall retain counsel reasonably satisfactory to the Indemnified Person to represent the Indemnified Person and any others the Indemnifying Person may designate in such proceeding and shall pay the fees and expenses of such counsel related to such proceeding. In any such proceeding, any Indemnified Person shall have the right to retain its own counsel, but the fees and expenses of such counsel shall be at the expense of such Indemnified Person unless (i) the Indemnifying Person and the Indemnified Person shall have mutually agreed to the contrary, (ii) the Indemnifying Person has failed within a reasonable time to retain counsel reasonably satisfactory to the Indemnified Person or (iii) the named parties in any such proceeding (including any impleaded parties) include both the Indemnifying Person and the Indemnified Person and representation of both parties by the same counsel would be inappropriate due to actual or potential differing interests between them. It is understood that the Indemnifying Person shall not, in connection with any proceeding or related proceeding in the same jurisdiction, be liable for the fees and expenses of more than one separate firm (in addition to any local counsel) for all Indemnified Persons, and that all such fees and expenses shall be reimbursed as they are incurred. Any such separate firm for the Underwriters and such control persons of Underwriters shall be designated in writing by Lehman Brothers Inc. and any such separate firm for the Company, the Operating Partnership, their directors, their officers and such control persons of the Company and the Operating Partnership or authorized representatives shall be designated in writing by the Company or the Operating Partnership. The Indemnifying Person shall not be liable for any settlement of any proceeding effected without its written consent, but if settled with such consent or if there be a final judgment for the plaintiff, the Indemnifying Person agrees to indemnify any Indemnified Person from and against any loss or liability by reason of such settlement or judgment. Notwithstanding the foregoing sentence, if at any time an Indemnified Person shall have requested an Indemnifying Person to reimburse the Indemnified Person for fees and expenses of counsel as contemplated by the third sentence of this paragraph, the Indemnifying Person agrees that it shall be liable for any settlement of any proceeding effected without its written consent if (i) such settlement is entered into more than 30 days after receipt by such Indemnifying Person of the aforesaid request and (ii) such Indemnifying Person shall not have reimbursed the Indemnified Person in accordance with such request prior to the date of such settlement. If it is ultimately determined that an Indemnified Person was not entitled to indemnification hereunder, such Indemnified Person shall be responsible for repaying or reimbursing the Indemnifying Person for any amounts so paid or incurred by such Indemnifying Person pursuant to this paragraph. No Indemnifying Person shall, without the prior written consent of the Indemnified Person, effect any settlement of any pending or threatened proceeding in respect of which any Indemnified Person is or could have been a party and indemnity could have been sought hereunder by such Indemnified Person, unless such settlement (i) includes an unconditional release of such Indemnified Person from all liability on claims that are the subject matter of such proceeding and (ii) does not include a statement as to, or an admission of, fault, culpability or a failure to act by or behalf of an indemnified party. In no event shall any Indemnifying Person have any liability or responsibility in respect of the settlement or compromise of, or consent to the entry of any judgment with respect to any pending or threatened action or claim effected without its prior written consent.

If the indemnification provided for in the first and second paragraphs of this Section 6 is unavailable or insufficient to hold harmless an Indemnified Person in respect of any losses, claims, damages or liabilities referred to therein, then each Indemnifying Person under such paragraph, in lieu of

indemnifying such Indemnified Person thereunder, shall contribute to the amount paid or payable by such Indemnified Person as a result of such losses, claims, damages or liabilities (a) in such proportion as is appropriate to reflect the relative benefits received by the Company and the Operating Partnership on the one hand and the Underwriters on the other hand from the offering of the Securities or (b) if the allocation provided by clause (a) above is not permitted by applicable law, in such proportion as is appropriate to reflect not only the relative benefits referred to in clause (a) above but also the relative fault of the Company and the Operating Partnership on the one hand and the Underwriters on the other in connection with the statements or omissions that resulted in such losses, claims, damages or liabilities, as well as any other relevant equitable considerations. The relative benefits received by the Company and the Operating Partnership on the one hand and the Underwriters on the other shall be deemed to be in the same respective proportions as the net proceeds from the offering of such Securities (before deducting expenses) received by the Company and the Operating Partnership and the total underwriting discounts and the commissions received by the Underwriters bear to the aggregate public offering price of the Securities. The relative fault of the Company and the Operating Partnership on the one hand and the Underwriters on the other shall be determined by reference to, among other things, whether the untrue or alleged untrue statement of a material fact or the omission or alleged omission to state a material fact relates to information supplied by the Company and the Operating Partnership on the one hand or by the Underwriters on the other and the parties' relative intent, knowledge, access to information and opportunity to correct or prevent such statement or omission.

The Company, the Operating Partnership and the Underwriters agree that it would not be just and equitable if contribution pursuant to this Section 6 were determined by pro rata allocation (even if the Underwriters were treated as one entity for such purpose) or by any other method of allocation that does not take account of the equitable considerations referred to in the immediately preceding paragraph. The amount paid or payable by an Indemnified Person as a result of the losses, claims, damages and liabilities referred to in the immediately preceding paragraph shall be deemed to include, subject to the limitations set forth above, any legal or other expenses incurred by such Indemnified Person in connection with investigating or defending any such action or claim. Notwithstanding the provisions of this Section 6, in no event shall an Underwriter be required to contribute any amount in excess of the amount by which the total price at which the Securities underwritten by it and distributed to the public were offered to the public exceeds the amount of any damages that such Underwriter has otherwise been required to pay by reason of such untrue or alleged untrue statement or omission or alleged omission. 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 Underwriters' obligations to contribute pursuant to this Section 6 are several in proportion to the respective principal amounts of Securities set forth opposite their names in Schedule II hereto, and not joint.

The remedies provided for in this Section 6 are not exclusive and shall not limit any rights or remedies which may otherwise be available to any indemnified party at law or in equity.

The indemnity and contribution agreements contained in this Section 6 and the representations, warranties and covenants of the Company and the Operating Partnership set forth in this Agreement shall remain operative and in full force and effect regardless of (a) any termination of this Agreement, (b) any investigation made by or on behalf of any Underwriter or any person controlling any Underwriter or by or on behalf of the Company, its officers or directors or any other person controlling the Company or the Operating Partnership and (c) acceptance of and payment for any of the Securities.

7. The several obligations of the Underwriters hereunder shall be subject to the performance by the Company and the Operating Partnership of their respective obligations hereunder and to satisfaction of each of the following conditions:

(a) the Registration Statement, including any Rule 462(b) Registration Statement, has become effective under the Act; the Prospectus shall have been filed with the Commission pursuant to Rule 424(b) within the applicable time period prescribed for such filing by such Rule; no stop order suspending the effectiveness of the Registration Statement or the Prospectus shall be in effect, and no proceedings for such purpose shall have been commenced or shall be pending before or threatened by the Commission to the knowledge, after due inquiry, of the Company or the Operating Partnership; no stop order suspending the effectiveness of the Registration Statement or the Prospectus shall be in effect and no proceedings for such purpose shall have been commenced or shall be pending before or threatened by the state securities authority of any jurisdiction, to the knowledge of the Company or the Operating Partnership; and all requests for additional information on the part of the Commission shall have been complied with to your satisfaction;

(b) all the representations and warranties of the Company and the Operating Partnership contained in this Agreement shall be true and correct on the Closing Date, with the same force and effect as if made on and as of the Closing Date and the Company and the Operating Partnership shall have complied with all agreements and all conditions on its part to be performed or satisfied hereunder at or prior to the Closing Date;

(c) subsequent to the execution and delivery of this Agreement and prior to the Closing Date, there shall not have occurred any downgrading, nor shall any notice have been given of (i) any intended or potential downgrading or (ii) any review or possible change that does not indicate an improvement, in the rating accorded any securities of or guaranteed by the Company or the Operating Partnership by any "nationally recognized statistical rating organization," as such term is defined for purposes of Rule 436(g)(2) under the Securities Act;

(d) since the respective dates as of which information is given in the Registration Statement and the Prospectus there shall not have been any material change in the capital stock, partners' equity or long-term debt of the Company, the Operating Partnership or any of the Subsidiaries on a consolidated basis, except as described or contemplated in the Prospectus, or any material adverse change, or any development involving a prospective material adverse change, in or affecting the general affairs, business, prospects, management, properties, financial position, stockholders' equity, partners' equity or results of operations of the Company, the Operating Partnership and the Subsidiaries, taken as a whole, otherwise than as set forth or contemplated in the Prospectus, the effect of which in the judgment of Lehman Brothers Inc. makes it impracticable or inadvisable to proceed with the public offering or the delivery of the Securities on the terms and in the manner contemplated in the Prospectus; and other than as set forth in the Prospectus, no proceedings shall be pending or, to the knowledge of the Company or the Operating Partnership, after due inquiry, threatened against the Operating Partnership or the Company or any Property before or by any federal, state or other commission, board or administrative agency, where an unfavorable decision, ruling or finding could reasonably be expected to result in a Material Adverse Effect;

(e) you shall have received on and as of the Closing Date a certificate signed by the Chief Executive Officer of the Company and the Chief Financial Officer of the Company, in their capacities as officers of the Company, on behalf of the Company for itself and as general partner of the Operating Partnership, satisfactory to you to the effect set forth in subsections (a) through (d) of this Section 7(e);

(f) you shall have received on the Closing Date, an opinion or opinions (satisfactory to you and counsel for the Underwriters), dated the Closing Date, of Cahill Gordon & Reindel LLP, counsel for the Company and the Operating Partnership, to the effect that:

(i) The Company is duly qualified or registered as a foreign corporation to transact business and is in good standing in each jurisdiction identified with an asterisk in Schedule III hereto, and each Corporate Subsidiary is duly qualified or registered as a foreign corporation to transact business and is in good standing in each jurisdiction identified with an asterisk in Schedule III hereto, in each case except where the failure to obtain such qualification or registration will not have a Material Adverse Effect.

(ii) The Operating Partnership and each of the Partnership Subsidiaries has been duly formed and is validly existing as a limited partnership in good standing under the laws of its state of organization. The Operating Partnership and each of the Partnership Subsidiaries has all requisite partnership power and authority to own, lease and operate its properties and other assets and to conduct the business in which it is engaged and proposes to engage, in each case, as described in the Prospectus, and the Operating Partnership has the partnership power to enter into and perform its obligations under this Agreement and the Remarketing Agreements. The Operating Partnership and each of the Partnership Subsidiaries is duly qualified or registered as a foreign partnership and is in good standing in each jurisdiction identified with an asterisk in Schedule III hereto, in each case except where the failure to obtain such qualification or registration will not have a Material Adverse Effect.

(iii) To the knowledge of such counsel, other than shares reserved for issuance pursuant to the Company's Shareholder Rights Plan, no shares of preferred stock of the Company are reserved for any purpose. To the knowledge of such counsel, there are no outstanding securities convertible into or exchangeable for any preferred stock of the Company and no outstanding options other than as provided in this Agreement, rights (preemptive or otherwise) or warrants to purchase or to subscribe for Depositary Shares of preferred stock of the Company. To the knowledge of such counsel, all of the outstanding partnership interests of the Operating Partnership and each of the Partnership Subsidiaries have been duly authorized, validly issued and fully paid and, except for Units not owned by the Company, are owned directly or indirectly by the Company or the Operating Partnership.

(iv) To the knowledge of such counsel, none of the Company, the Operating Partnership or the Subsidiaries is in violation of or default under its charter, bylaws, certificate of limited partnership or partnership agreement, as the case may be, and none of such entities is in default in the performance or observance of any obligation, agreement, covenant or condition contained in any document (as in effect on the date of such opinion) listed as an exhibit to the Registration Statement or of the Company's and the Operating Partnership's Annual Report on Form 10-K for the year ended December 31, 2003 or Quarterly Report on Form 10-Q for the quarter ended March 31, 2004, in each case as amended, if applicable, to which such entity is a party or by which such entity may be bound, or to which any of the property or assets of such entity or any Property subject to or bound by (it being understood that (i) such counsel need express no opinion with respect to matters relating to any contract, indenture, mortgage, loan agreement, note lease, joint venture or partnership agreement or other instrument or agreement relating to the acquisition, transfer, operation, maintenance, management or financing of any property or assets of such entity or any other Property and (ii) such

counsel may assume compliance with the financial covenants contained in any such document), except in each case for violations or defaults which in the aggregate are not reasonably expected to have a Material Adverse Effect.

(v) This Agreement and the Remarketing Agreements were duly and validly authorized, executed and delivered by each of the Company and the Operating Partnership and the Deposit Agreements and the Calculation Agent Agreements were duly and validly authorized executed and delivered by the Company.

(vi) The Registration Statement has been declared effective under the Securities Act, the Prospectus was filed with the Commission pursuant to Rule 424, within the applicable time period prescribed by Rule 424, and, to the knowledge of such counsel, no stop order suspending the effectiveness of the Registration Statement or the Prospectus has been issued and no proceeding for that purpose is pending or threatened by the Commission.

(vii) The execution and delivery of this Agreement, the Series F Articles Supplementary, the Series G Articles Supplementary, the Deposit Agreements, the Remarketing Agreements and the Calculation Agent Agreements and the issuance and sale of the Depositary Shares and the performance by the Company and the Operating Partnership of their respective obligations under the Depositary Shares, this Agreement, the Deposit Agreements, the Remarketing Agreements and the Calculation Agent Agreements, to the extent they are a party thereto, did not and do not conflict with or constitute a breach or violation of or default under: (1) any document (as in effect as of the date of such opinion) listed as an exhibit to the Registration Statement, each of the Company's Annual Report on Form 10-K for the year ended December 31, 2003 or Quarterly Report on Form 10-Q for the quarter ended March 31, 2004, in each case as amended, if applicable, to which any such entity is a party or by which it or any of them or any of their respective properties or other assets may be bound or subject and of which such counsel is aware (it being understood that (i) such counsel need express no opinion with respect to matters relating to any contract, indenture, mortgage, loan agreement, note lease, joint venture or partnership agreement or other instrument or agreement relating to the acquisition, transfer, operation, maintenance, management or financing of any property or assets of such entity or any other Property and (ii) such counsel may assume compliance with the financial covenants contained in any such document); (2) the certificate of limited partnership or partnership agreement, as the case may be, of the Operating Partnership and the Financing Partnership or the articles of incorporation or bylaws, as the case may be, of the Company, FIFC or FISC; or (3) any applicable law, rule or administrative regulation, except in each case for conflicts, breaches, violations or defaults that in the aggregate are not reasonably expected to have a Material Adverse Effect.

(viii) To the knowledge of such counsel, no Material authorization, approval, consent or order of any court or governmental authority or agency or any other entity is required in connection with the offering, issuance or sale of the Depositary Shares hereunder, except such as may be required under the Securities Act, the bylaws, corporate financing rule and conflict of interest rule of the NASD, or state securities, Blue Sky or real estate syndication laws, or such as have been received prior to the date of such opinion.

(ix) The Registration Statement, at the time it became effective and the Prospectus, as of the date of the Prospectus Supplement, in each case, other than the financial statements, including the notes and schedules thereto, and other financial and statistical data that is found in or derived from the internal accounting records of the Company, the Operating Partnership or their respective subsidiaries set forth in or incorporated by reference therein, as to which no opinion need be rendered, complied as to form in all material respects with the requirements of the Securities Act and the Exchange Act.

(x) Each of the Underwriters is receiving good, valid and marketable title to the Depositary Shares, free and clear of all security interests, mortgages, pledges, liens, encumbrances, claims and equities if the Underwriters acquire such Depositary Shares in good faith and without notice of any such security interests, mortgages, pledges, liens, encumbrances, claims or equities.

(xi) The information in the Prospectus Supplement under "Description of the Preferred Shares," "Certain United States Federal Income Tax Consequences," and in the Prospectus under "Risk Factors," "Description of Preferred Stock," "Description of Depositary Shares," "Restrictions on Transfers of Capital Stock," and "Federal Income Tax Considerations" (as modified by the information in the Prospectus Supplement), to the extent that it constitutes statements of law, descriptions of statutes, rules or regulations, or summaries of documents or legal conclusions, has been reviewed by us and is correct in all material respects and presents fairly the information required to be disclosed therein.

(xii) To such counsel's knowledge, there is no document or contract of a character required to be described or referred to in the Registration Statement and Prospectus or to be filed as exhibits thereto by the Securities Act other than those described or referred to therein or filed as exhibits thereto, and the descriptions thereof or references thereto are accurate in all material respects.

(xiii) The partnership agreement of each of the Operating Partnership, Securities, L.P. and the Financing Partnership has been duly authorized, validly executed and delivered by each of the Company and the Partnership Subsidiaries, to the extent they are parties thereto, and is valid, legally binding and enforceable in accordance with its terms, subject to bankruptcy, insolvency, fraudulent transfer, reorganization, moratorium and similar laws of general applicability relating to or affecting creditors' rights and of general principles of equity (regardless of whether such enforceability is considered in a proceeding in equity or at law).

(xiv) The Company and the Operating Partnership satisfy all conditions and requirements for filing the Registration Statement on Form S-3 under the Act.

(xv) None of the Company or the Subsidiaries is required to be registered as an investment company under the Investment Company Act of 1940, as amended.

(xvi) We are of the opinion that commencing with the Company's taxable year ended December 31, 1994, the Company has been organized and operated in conformity with the requirements for qualification and taxation as a REIT under the Code, and the Company's current and proposed method of operation (as represented by the Company to

us in a written certificate) will enable it to continue to meet the requirements for qualification and taxation as a REIT under the Code.

In addition, Cahill Gordon & Reindel LLP shall confirm that the opinion filed as Exhibit 8 to the Registration Statement is true and correct as of the date thereof and shall authorize the Underwriters to rely on such opinion as if it were addressed to the Underwriters.

In addition, Cahill Gordon & Reindel LLP shall state that they have participated in conferences with officers and other representatives of the Company, the Operating Partnership and the Subsidiaries, representatives of the independent public accountants for the Company, the Operating Partnership and the Subsidiaries and representatives of the Underwriters at which the contents of the Registration Statement and the Prospectus and related matters were discussed. On the basis thereof, but without independent verification by such counsel of, and without passing upon or assuming any responsibility for, the accuracy, completeness or fairness of the statements contained in the Registration Statement or the Prospectus or any amendments or supplements thereto, no facts have come to the attention of such counsel that lead them to believe that (i) the Registration Statement, including the documents incorporated therein by reference, at the time such Registration Statement became effective, contained any untrue statement of a material fact or omitted to state any material fact required to be stated therein or necessary in order to make the statements therein not misleading or (ii) the Prospectus, as of its date or at the Closing Date, contained or contains any untrue statement of a material fact or omitted or omits to state a material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading (it being understood that such counsel need express no opinion with respect to the financial statements, including the notes and schedules thereto, or any other financial or statistical data that is found in or derived from the internal accounting records of the Company, the Operating Partnership or their respective subsidiaries set forth in or incorporated by reference into the Registration Statement or the Prospectus).

In giving its opinion, such counsel may rely (i) as to all matters of fact, upon certificates and written statements of officers, directors, partners and employees of and accountants for each of the Company, the Operating Partnership, the Corporate Subsidiaries and the Partnership Subsidiaries, (ii) as to matters of Maryland law, on the opinion of McGuire Woods L.L.P., Baltimore, Maryland, which opinion shall be in form and substance reasonably satisfactory to counsel for the Underwriters, (iii) as to matters of Illinois law, on the opinion of Barack Ferrazzano Kirschbaum, Perlman & Nagelberg, Chicago, Illinois, which opinion shall be in form and substance reasonably satisfactory to counsel for the Underwriters, and (iv) as to the good standing and qualification of the Company, the Operating Partnership, the Corporate Subsidiaries and the Partnership Subsidiaries to do business in any state or jurisdiction, upon certificates of appropriate government officials or opinions of counsel in such jurisdictions. Counsel need express no opinion (A) as to the enforceability of forum selection clauses in the federal courts or (B) with respect to the requirements of, or compliance with, any state securities or "Blue Sky" or real estate syndication laws;

(g) You shall have received on the Closing Date, an opinion (satisfactory to you and counsel for the Underwriters), dated the Closing Date, of McGuire Woods L.L.P., special Maryland counsel for the Company, to the effect that:

(i) Each of the Company and the Corporate Subsidiaries has been duly incorporated and is validly existing as a corporation in good standing under the laws of its respective jurisdiction of incorporation.

(ii) Each of the Company and the Corporate Subsidiaries has corporate power and authority to own, lease and operate its properties and other assets and to

conduct the business in which it is engaged or proposes to engage, in each case, as described in the Prospectus, and the Company has the corporate power and authority to enter into and perform its obligations under this Agreement, the Deposit Agreements, the Remarketing Agreements and the Calculation Agent Agreements.

(iii) The Company's authorized capitalization consists of 10,000,000 shares of preferred stock, par value \$.01 per share, 100,000,000 shares of common stock, par value \$.01 per share and 65,000,000 shares of excess stock, par value \$.01 per share. All of the issued and outstanding shares of capital stock of the Company have been duly authorized and are validly issued, fully paid and non-assessable. All the issued and outstanding shares of capital stock of the Corporate Subsidiaries have been duly authorized and are validly issued, fully paid and non-assessable and are owned by the Company.

(iv) Each of the Securities has been duly authorized for issuance and sale to the Underwriters pursuant to this Agreement and the Deposit Agreements, when validly issued and delivered pursuant to this Agreement against payment of the Purchase Price, will be duly authorized, validly issued, fully paid and non-assessable. To the extent Maryland law provides the basis for determination, each of the Underwriters is receiving good, valid and marketable title to the Securities, free and clear of all security interests, mortgages, pledges, liens, encumbrances, claims and equities if the Underwriters acquire such Securities in good faith and without notice of any such security interests, mortgages, pledges, liens, encumbrances, claims or equities. The terms of the Securities conform in all material respects to all statements and descriptions related thereto contained in the Registration Statement, the Series F Articles Supplementary, the Series G Articles Supplementary and the Prospectus. The form of depositary receipt used to evidence the Securities are in due and proper form and comply in all material respects with all applicable legal requirements. The issuance of the Securities is not subject to any preemptive or other similar rights arising under Maryland General Corporation Law, the Company's charter or by-laws, as amended to date, or any agreement of which such counsel is aware.

(v) Each of this Agreement, the Series F Articles Supplementary, the Series G Articles Supplementary, the Deposit Agreements, the Remarketing Agreements and the Calculation Agent Agreements was duly and validly authorized by the Company, on behalf of itself and the Operating Partnership.

(vi) The execution and delivery of this Agreement, the Series F Articles Supplementary, the Series G Articles Supplementary, the Deposit Agreements, the Remarketing Agreements and the Calculation Agent Agreements, the performance of the obligations and the consummation of the transaction set forth herein and therein by the Company will not require, to the knowledge of such counsel, any consent, approval, authorization or other order of any Maryland court, regulatory body, administrative agency or other governmental body (except as such may be required under the Securities Act or other securities laws) and did not and do not conflict with or constitute a breach or violation of or default under: (A) the charter or by-laws, as the case may be, of the Company; and (B) any applicable Maryland law, rule or administrative regulation or any order or administrative or court decree of which such counsel is aware, except in the case of clause (B) above for conflicts, breaches, violations or defaults that in the aggregate would not have a Material Adverse Effect.

(vii) To the knowledge of such counsel, no Material authorization, approval, consent or order of any Maryland court, governmental authority, agency or other entity is required in connection with the offering, issuance or sale of the Securities hereunder, except such as may be required under Maryland securities, blue sky or real estate syndication laws.

(viii) The information in the Prospectus under "Certain Provisions of Maryland Law and First Industrial Realty Trust, Inc.'s Articles of Incorporation and Bylaws" and "Restrictions on Transfers of Capital Stock", and "Description of Preferred Stock" and in Part II of the Registration Statement under Item 15, to the extent that it constitutes statements of law, descriptions of statutes, rules or regulations, summaries of documents or legal conclusions, has been reviewed by such counsel and, as to Maryland law, is correct in all material respects and presents fairly the information required to be disclosed therein.

(ix) The Company and each of the Corporate Subsidiaries was authorized to enter into the partnership agreement of each Partnership Subsidiary for which the Company, the Operating Partnership or such Corporate Subsidiary, as the case may be, is the general partner.

(h) You shall have received on the Closing Date, an opinion (satisfactory to you and counsel for the Underwriters), dated the Closing Date, of Barack Ferrazzano Kirschbaum Perlman & Nagelberg, special Illinois counsel for the Company, to the effect that:

(i) To the knowledge of such counsel, none of the Company or the Operating Partnership, FIMC, the Mortgage Partnership, FIPC or FIP is in violation of, or default in connection with the performance or observance of any obligation, agreement, covenant or condition contained in any or all of that certain Unsecured Revolving Credit Facility, dated as of September 27, 2002, among the Operating Partnership, as Borrower, the Company, as Guarantor and General Partner, Bank One, NA, and certain other banks as lenders, Banc One Capital Markets, Inc. as Lead Arranger and Sole Book Runner, Bank of America, N.A. as Syndication Agent, and Commerzbank AG, New York and Grand Cayman Branches and Wachovia Bank, N.A., as Documentation Agents (all such indebtedness collectively, the "Credit Documents"), except in each case for defaults that, in the aggregate, are not reasonably expected to have a Material Adverse Effect.

(ii) The execution and delivery of this Agreement, the performance of the obligations and consummation of transactions set forth herein and therein by the Company and the Operating Partnership did not and do not conflict with, or constitute a breach or violation of, or default under: (A) any or all of the Credit Documents; (B) any applicable law, rule or administrative regulation of the federal government (or agency thereof) of the United States; or (C) any order or administrative or court decree issued to or against, or concerning any or all of the Company, the Operating Partnership, the Partnership Subsidiaries and the Corporate Subsidiaries, of which, in the cases of clauses (B) and (C) above, such counsel is aware, except in each case for conflicts, breaches, violations or defaults that, in the aggregate, would not have a Material Adverse Effect.

(iii) To the knowledge of such counsel, there are no legal or governmental proceedings pending or threatened that do, or are likely to, have a Material Adverse Effect.

(iv) The information in the 10-K under Item 7 "Management's Discussion and Analysis of Financial Condition and Results of Operations--Mortgage Loans Payable" (other than information relating to a certain mortgage loan made available to First Industrial Financing Partnership, L.P. by Nomura Asset Capital Corporation) to the extent that it constitutes statements of law, descriptions of statutes, summaries of principal financing terms of Credit Documents or legal conclusions, has been reviewed by such counsel and is correct in all material respects and presents fairly the information disclosed therein.

(i) On the date hereof, the Accountants shall have furnished to the Underwriters a letter, dated the date of its delivery, addressed to the Underwriters and in form and substance satisfactory to the Underwriters (and to its counsel), confirming that they are independent public accountants with respect to the Company, the Operating Partnership and the Subsidiaries as required by the Securities Act and with respect to the financial and other statistical and numerical information contained in the Registration Statement and the Prospectus and containing statements and information of the type ordinarily included in accountants' "comfort letters" as set forth in the AICPA's Statement on Auditing Standards 72. At the Closing Date, the Accountants shall have furnished to the Underwriters a letter, dated the date of its delivery, which shall confirm, on the basis of a review in accordance with the procedures set forth in the letter from it, that nothing has come to its attention during the period from the date of the letter referred to in the prior sentence to a date (specified in the letter) not more than five days prior to the Closing Date, which would require any change in its letter dated the date hereof if it were required to be dated and delivered at the Closing Date.

(j) You shall have received on the Closing Date an opinion, dated the Closing Date, of Clifford Chance US LLP ("CC"), counsel for the Underwriters, as to the matters referred to in clauses (ii) (with respect to the Operating Partnership and the first sentence only), (v) and (x) of Section 7(f), and to clause (i) (with respect to the Company only) of Section 7(g) and in addition, CC shall make statements similar to those contained in the second paragraph following Section 7(f)(xvi) hereto and shall be entitled to rely on those persons described in the third paragraph following Section 7(f)(xvi) hereto with respect to the matters described therein.

In giving its opinion, such counsel may rely (A) as to matters of Maryland law, on the opinion of McGuire Woods L.L.P., Baltimore Maryland, which opinion shall be in form and substance reasonably satisfactory to counsel for the Underwriters and (B) as to the good standing and qualification of the Company, the Corporate Subsidiaries and the Partnership Subsidiaries to do business in any state or jurisdiction, upon certificates of appropriate governmental officials or opinions of counsel in such jurisdictions.

(k) At the Closing Date, the Securities shall have the ratings accorded by any "nationally recognized statistical organization," as defined by the Commission for purposes of Rule 436(g)(2) under the Act if and as specified in Schedule II hereto, and the Company shall have delivered to Lehman Brothers Inc. a letter, dated as of such date, from each such rating organization, or other evidence satisfactory Lehman Brothers Inc., confirming that the Securities have such ratings. Since the date hereof, there shall not have occurred a downgrading in the rating assigned to the Securities or any of the Company's securities or the Operating Partnership's other securities by any such rating organization, and no such rating organization shall have publicly announced that it has under surveillance or review, with possible negative implications, its rating of the Securities or any of the Company's securities or the Operating Partnership's other securities.

(l) If the Registration Statement or an offering of Securities has been filed with the NASD for review, the NASD shall not have raised any objection with respect to the fairness and reasonableness of the underwriting terms and arrangements.

(m) The Company and its Subsidiaries shall not have failed at or prior to the Closing Date and any applicable Option Closing Date, as the case may be, to perform or comply with any of the agreements pursuant to Section 4 herein contained or required to be performed or complied with by the Company at or prior to the Closing Date and the Option Closing Date, as the case may be.

(n) At the Closing Date, the Remarketing Agreements, Deposit Agreements and the Calculation Agent Agreements shall have been duly and validly authorized, executed and delivered by each of the Company and the Operating Partnership, to the extent they are a party thereto.

(o) At the Closing Date, counsel for the Underwriters shall have been furnished with such documents and opinions as they may reasonably require for the purpose of enabling them to pass upon the issuance and sale of the Securities, as herein contemplated and related proceedings, or in order to evidence the accuracy of any of the representations or warranties, or the fulfillment of any of the conditions, herein contained; and all proceedings taken by the Operating Partnership and the Company in connection with the issuance and sale of the Securities as herein contemplated shall be reasonably satisfactory in form and substance to the Underwriters and counsel for the Underwriters.

The opinions and certificates mentioned in this Agreement shall be deemed to be in compliance with the provisions hereof only if they are in all material respects satisfactory to you and to CC, counsel for the Underwriters.

8. Notwithstanding anything herein contained, this Agreement may be terminated in your absolute discretion by notice given to the Company, if after the execution and delivery of this Agreement and prior to the Closing Date (a) the Company and the Operating Partnership shall have failed, refused or been unable, at or prior to the Closing Date, to perform any agreements on its part to be performed hereunder, (b) any other conditions to the Underwriters' obligations hereunder are not fulfilled, (c) trading generally shall have been suspended or materially limited on or by, as the case may be, any of the New York Stock Exchange, the American Stock Exchange, the National Association of Securities Dealers, Inc., the Chicago Board Options Exchange, the Chicago Mercantile Exchange or the Chicago Board of Trade, (d) trading of any securities of or guaranteed by the Company and the Operating Partnership shall have been suspended on any exchange or in any over-the-counter market, (e) a general moratorium on commercial banking activities in New York shall have been declared by either Federal or New York State authorities; (f) any major disruption of settlements of securities or clearance services in the United States; or (g) there shall have occurred any outbreak or escalation of hostilities or act of terrorism involving the United States or any change in financial markets or any calamity or crisis that, in the judgment of Lehman Brothers Inc., is material and adverse and which, in the judgment of Lehman Brothers Inc., makes it impracticable to market the Securities on the terms and in the manner contemplated in the Prospectus.

9. If, on the Closing Date, any one or more of the Underwriters shall fail or refuse to purchase Securities which it or they have agreed to purchase under this Agreement, and the number of Securities, which such defaulting Underwriter or Underwriters agreed but failed or refused to purchase is not more than one-tenth of the number of the Securities, the other Underwriters shall be obligated severally in the proportions that the principal amount of Securities set forth opposite their respective names in Schedule I hereto bears to the number of Securities set forth opposite the names of all such non-

defaulting Underwriters, or in such other proportions as the non-defaulting Underwriters may specify, to purchase the Securities which such defaulting Underwriter or Underwriters agreed but failed or refused to purchase on such date; provided that in no event shall the principal amount of Securities that any Underwriter has agreed to purchase pursuant to Section 1 be increased pursuant to this Section 9 by an amount in excess of one-ninth of such principal amount of Securities without the written consent of such Underwriter. If, on the Closing Date, any Underwriter or Underwriters shall fail or refuse to purchase Securities and the number of Securities with respect to which such default occurs is more than one-tenth of the number of Securities to be purchased, and arrangements satisfactory to the Underwriters and the Company for the purchase of such Securities are not made within 36 hours after such default, this Agreement shall terminate without liability on the part of any non-defaulting Underwriter or the Company. In any such case either you or the Company and the Operating Partnership shall have the right to postpone the Closing Date, but in no event for longer than seven days, in order that the required changes, if any, in the Registration Statement and in the Prospectus or in any other documents or arrangements may be effected. Any action taken under this paragraph shall not relieve any defaulting Underwriter from liability in respect of any default of such Underwriter under this Agreement.

10. If this Agreement shall be terminated by the Underwriters, or any of them, because of any failure or refusal on the part of the Company and the Operating Partnership to comply with the terms or to fulfill any of the conditions of this Agreement, or if for any reason the Company and the Operating Partnership shall be unable to perform their obligations under this Agreement or any condition of the Underwriters' obligations cannot be fulfilled, the Company and the Operating Partnership agree to reimburse the Underwriters or such Underwriters as have so terminated this Agreement with respect to themselves, severally, for all out-of-pocket expenses (including the fees and expenses of their counsel) reasonably incurred by the Underwriters in connection with this Agreement or the offering of Securities contemplated hereunder and the Company and the Operating Partnership shall then be under no further liability to any Underwriters pursuant to this Agreement except as provided in Sections 4(i) and 6 of this Agreement.

11. In the event of termination of this Agreement, the provisions of Sections 4(i) and 6 remain operative and in full force and effect.

12. This Agreement shall inure to the benefit of and be legally binding upon the Company, the Operating Partnership, the Underwriters, any controlling persons referred to herein and their respective successors and assigns. Nothing expressed or mentioned in this Agreement is intended or shall be construed to give any other person, firm or corporation any legal or equitable right, remedy or claim under or in respect of this Agreement or any provision herein contained. No purchaser of Securities from any Underwriter shall be deemed to be a successor by reason merely of such purchase.

13. Any action by the Underwriters hereunder may be taken by you jointly or by Lehman Brothers Inc. alone on behalf of the Underwriters, and any such action taken by you jointly or by Lehman Brothers Inc. alone shall be binding upon the Underwriters. All notices and other communications hereunder shall be in writing and shall be deemed to have been duly given if mailed or transmitted by any standard form of telecommunication. Notices to the Underwriters shall be given to the Underwriters, c/o Lehman Brothers Inc., 745 Seventh Avenue, New York, New York 10019, Attention: Preferred Stock/Hybrid Capital Group, with a copy to Clifford Chance US LLP, 200 Park Avenue, New York, New York 10166, Attention: Larry P. Medvinsky, Esq. Notices to the Company shall be given to it at First Industrial Realty Trust, Inc., 311 South Wacker Drive, Suite 4000, Chicago, Illinois, 60606, Attention: John H. Clayton, Esq., with a copy to Cahill Gordon & Reindel LLP, 80 Pine Street, New York, New York, 10005, Attention: Gerald S. Tanenbaum, Esq.

14. This Agreement may be signed in counterparts, each of which shall be an original and all of which together shall constitute one and the same instrument.

15. This Agreement shall be governed by and construed in accordance with the laws of the State of New York, without giving effect to the conflicts of laws provisions thereof.

[Signatures begin on following page.]

Very truly yours,

FIRST INDUSTRIAL REALTY TRUST, INC.

By: /s/ M. Havala

Name: Michael J. Havala
Title: Chief Financial Officer

FIRST INDUSTRIAL, L.P.

By:

First Industrial Realty Trust, Inc.,
as its sole general partner

By: /s/ M. Havala

Name: Michael J. Havala
Title: Chief Financial Officer

Accepted: May 18, 2004

LEHMAN BROTHERS INC.
CREDIT SUISSE FIRST BOSTON LLC
WACHOVIA CAPITAL MARKETS, LLC
BB&T CAPITAL MARKETS, A DIVISION OF SCOTT & STRINGFELLOW, INC.
c/o Lehman Brothers Inc.
745 Seventh Avenue
New York, New York 10019

By: LEHMAN BROTHERS INC.,
on behalf of itself and the several Underwriters
listed in Schedule II hereto

By: /s/ E.M. Callan

Name: Erin M. Callan
Title: Managing Director

SCHEDULE I

Underwriters -----	Number of Series F Depository Shares* -----	Number of Series G Depository Shares* -----
Lehman Brothers Inc.	32,500	16,250
Credit Suisse First Boston LLC	6,250	3,125
Wachovia Capital Markets, LLC	8,750	4,375
BB&T Capital Markets, a Division of Scott & Stringfellow, Inc.	2,500	1,250
	-----	-----
Total	50,000	25,000

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* As defined in Schedule II hereto.

SCHEDULE II

Underwriters: Lehman Brothers Inc.
Credit Suisse First Boston LLC
Wachovia Capital Markets, LLC
BB&T Capital Markets, a Division of Scott &
Stringfellow, Inc.

Underwriting Agreement dated: May 18, 2004

Registration Statement No.: 333-57992

Title of Securities: Depository Shares Each Representing 1/100 of a Share of
Series F Flexible Cumulative Redeemable Preferred Stock
(Five-Year Initial Fixed Rate Period) (the "Series F
Depository Shares")

Depository Shares Each Representing 1/100 of a Share of
Series F Flexible Cumulative Redeemable Preferred Stock
(Ten-Year Initial Fixed Rate Period) (the "Series G
Depository Shares")

Aggregate principal amount: \$50,000,000 Series F Depository Shares
\$25,000,000 Series G Depository Shares

Price to Public: \$50,000,000
\$25,000,000

Purchase Price: \$49,375,000
\$24,687,500

Redemption: At any time, in whole or in part, at the Company's option, on
or after May 18, 2009, at a cash redemption price of \$1,000
per Series F Depository Share, plus all accrued and unpaid
dividends (whether or not declared) to the date of redemption

At any time, in whole or in part, at the
Company's option, on or after May 18, 2014,
at a cash redemption price of \$1,000 per
Series G Depository Share, plus all accrued
and unpaid dividends (whether or not
declared) to the date of redemption

Sinking Fund Provisions: None

Other Significant Provisions: As set forth in the Prospectus

Ratings: Standard & Poor's: "BBB-"

Moody's Investors Service: "Baa3"

Closing Date and Time of
Delivery:

The Closing will be held at 9:00 A.M. (New York City time) on
May 27, 2004, with the Securities being delivered through the
book-entry facilities of The Depository Trust
Company and made available for checking by
DTC at least 24 hours prior to the Closing
Date

Closing Location:

Clifford Chance US LLP
200 Park Avenue
New York, NY 10166

SCHEDULE III

JURISDICTIONS OF FOREIGN QUALIFICATION OF THE COMPANY,
THE CORPORATE SUBSIDIARIES AND THE PARTNERSHIP SUBSIDIARIES

ENTITY:	JURISDICTION
First Industrial, L.P.	Arizona California Connecticut Colorado Florida Georgia* Illinois* Indiana* Iowa Kansas Kentucky Louisiana Maryland Michigan Minnesota* Missouri New Jersey* New York* North Carolina Ohio Oregon Pennsylvania Tennessee Texas Utah Wisconsin

- - - - -

* Denotes jurisdictions on which counsel is opining.

First Industrial Financing Partnership, L.P.	Georgia* Illinois* Iowa Kansas Michigan* Minnesota* Missouri New Hampshire New Jersey Pennsylvania Tennessee Texas Wisconsin
First Industrial Acquisitions, Inc.	California Georgia Illinois Indiana Michigan Minnesota Missouri Ohio Pennsylvania Tennessee Wisconsin
First Industrial Pennsylvania Corporation	Pennsylvania
First Industrial Pennsylvania, L.P.	Pennsylvania
First Industrial Harrisburg Corporation	Pennsylvania
First Industrial Harrisburg, L.P.	Pennsylvania
First Industrial Securities Corporation	Illinois* Michigan*
First Industrial Securities, L.P.	Illinois Michigan Minnesota Pennsylvania
First Industrial Mortgage Corporation	Illinois Michigan
First Industrial Mortgage Partnership, L.P.	Georgia Illinois Michigan Minnesota Missouri Tennessee
First Industrial Indianapolis Corporation	Indiana
First Industrial Indianapolis, L.P.	Indiana

FI Development Services Corporation

Florida

Illinois
Maryland
Wisconsin

First Industrial Realty Trust, Inc.

Florida
Georgia*
Illinois*
Indiana*
Michigan*
Minnesota*
New Jersey*
New York*
North Carolina
Oregon
Utah

First Industrial Finance Corporation

Georgia*
Illinois*
Michigan*
Wisconsin

First Industrial Development Services, Inc.

Arizona
California
Colorado
Florida
Georgia
Illinois
Indiana
Louisiana
Maryland
Michigan
Minnesota
Missouri
New York
North Carolina
Ohio
Pennsylvania
Tennessee
Texas

FIRST INDUSTRIAL REALTY TRUST, INC.

Depository Shares Each Representing 1/100 of a Share of
Series F Flexible Cumulative Redeemable Preferred Stock

(Five-Year Initial Fixed Rate Period)
(Liquidation Preference Equivalent to \$1,000 Per Depository
Share of Series F Preferred Stock)

REMARKETING AGREEMENT

May 27, 2004

Lehman Brothers Inc.
745 7th Avenue
New York, New York 10019

Ladies and Gentlemen:

First Industrial Realty Trust, Inc., a Maryland corporation and real estate investment trust (the "Company"), is issuing today 50,000 Depository Shares (the "Depository Shares") each representing 1/100 of a share of Series F Flexible Cumulative Redeemable Preferred Stock (Five-Year Initial Fixed Rate) (the "Series F Preferred Shares") having a liquidation preference equivalent to \$1,000 per Depository Share to be issued under a deposit agreement (the "Deposit Agreement") between the Company and EquiServe Trust Company, N.A., as Depository (the "Depository").

The Articles Supplementary, dated May 26, 2004, of the Company relating to the Series F Preferred Shares (the "Series F Articles Supplementary") provide for the possible Remarketing (as defined below) of the Depository Shares, on one or more occasions, at the option of the Company as contemplated in the Series F Articles Supplementary. As used in this remarketing agreement (the "Agreement"), the term "Remarketed Securities" means any Depository Shares offered in a Remarketing; the term "Remarketing Procedures" means the procedures specified in Section 2 of the Series F Articles Supplementary; and the term "Remarketing" means a remarketing of the Remarketed Securities pursuant to the Remarketing Procedures.

In connection with any Remarketing, the Company will, to the extent required under the Securities Act of 1933, as amended and the rules and regulations promulgated thereunder (the "Securities Act"), in connection with Remarketings of Remarketed Securities, prepare and file one or more registration statements under the Securities Act with the Securities and Exchange Commission (the "Commission") relating to Remarketed Securities, and any necessary amendments thereto, and will prepare one or more prospectuses (which may be preliminary or final) complying with the requirements of the Securities Act, and any necessary supplements thereto, and setting forth or including a description of the applicable terms of the Remarketed Securities, the terms of the applicable Remarketing, a description of the Company and such other information as may be required by the Securities Act.

Capitalized terms used and not defined in this Agreement shall have the meanings set forth in the Series F Articles Supplementary. Any reference in this Agreement to any registration statement or to any preliminary prospectus or final prospectus (or any amendments or supplements to any of the foregoing) shall be deemed to (i) refer to any such document as it may at the time be amended or supplemented and (ii) include any document filed under the Securities

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Exchange Act of 1934, as amended and the rules and regulations promulgated thereunder (the "Exchange Act"), and at the time incorporated by reference therein.

Section 1. Appointment and Obligations of the Remarketing Agent.

(a) The Company hereby appoints Lehman Brothers Inc. as exclusive remarketing agent (the "Remarketing Agent"), and Lehman Brothers Inc. accepts appointment as Remarketing Agent for the purpose of (i) remarketing Remarketed Securities on behalf of the holders thereof and (ii) performing such other duties as are assigned to the Remarketing Agent in the Remarketing Procedures, all in accordance with and pursuant to the Remarketing Procedures.

(b) The Remarketing Agent agrees (i) to use commercially reasonable efforts to remarket the Remarketed Securities tendered or deemed tendered to the Remarketing Agent in any Remarketing, (ii) to notify the Company of the new Fixed Rate, if any, established pursuant to any Remarketing and (iii) to carry out such other duties as are assigned to the Remarketing Agent in the Remarketing Procedures, all in accordance with the provisions of the Remarketing Procedures.

(c) On any date during which a Remarketing is being conducted, the

Remarketing Agent shall use commercially reasonable efforts to remarket, at a price equal to \$1,000 per Depositary Share, Remarketed Securities tendered or deemed tendered for purchase.

(d) If, as a result of the Remarketing Agent's efforts described in Section 1(c), the Remarketing Agent has determined on any date during which a Remarketing is being conducted that it will be able to remarket all Remarketed Securities tendered or deemed tendered for purchase at a price of \$1,000 per Depositary Share (including any accrued and unpaid distributions or interest, the "Remarketing Purchase Price") prior to 4:00 P.M., New York City time, on such date (any such date of determination, a "Remarketing Date"), the Remarketing Agent shall determine the Fixed Rate resulting from such Remarketing and to be applicable to the next succeeding Distribution Period, which shall be the rate per annum (rounded to the nearest one-thousandth (0.001) of one percent per annum) which the Remarketing Agent determines, in its sole judgment, to be the lowest rate per annum, if any, that will enable it to remarket all Remarketed Securities tendered or deemed tendered for Remarketing at the Remarketing Purchase Price.

(e) If any holder of Remarketed Securities submits a Notice of Election to tender some or all of its Depositary Shares in a Remarketing and separately notifies the Remarketing Agent that such holder desires to continue to hold a number of Depositary Shares, but only if the Fixed Rate determined by the applicable Remarketing is not less than a specified rate per annum, the Remarketing Agent shall give priority to such holder's purchase of such number of Remarketed Securities in the Remarketing, provided that the new Fixed Rate is not less than such specified rate.

(f) By approximately 4:30 P.M., New York City time, on a Remarketing Date, the Remarketing Agent shall advise, by telephone, (i) the Depository Trust Company (the "DTC") participant who will receive a credit for the Depositary Shares on DTC's records (the "Depository Participant"), the Company and the Calculation Agent of any new Fixed Rate established pursuant to the Remarketing and the number of Remarketed Securities sold in the Remarketing, (ii) each purchaser of Remarketed Securities (or the Depository Participant thereof) of such new Fixed Rate and the number of Remarketed Securities such purchaser is to purchase and (iii) each purchaser to give instructions to its Depository Participant to pay the purchase price on the

Remarketing Settlement Date in same day funds against delivery of the Remarketed Securities purchased through the facilities of the Depositary Participant.

(g) If, by 4:00 P.M., New York City time, on the third business day prior to the Remarketing Settlement Date applicable to the Remarketing (such third business day, a "Remarketing Expiration Date") the Remarketing Agent is unable to remarket all Remarketed Securities tendered or deemed tendered for purchase at the Remarketing Price, the Remarketing Agent shall, by approximately 4:30 P.M., New York City time, on such date, advise by telephone the Depositary Participant, the Company and the Calculation Agent that the Distribution Rate for the Series F Preferred Shares for the next succeeding Distribution Period will be a Floating Rate determined in accordance with the Series F Articles Supplementary.

Section 2. Representations, Warranties and Agreements of the Company. The Company and First Industrial, L.P., a Delaware limited partnership (the "Operating Partnership"), jointly and severally represent, warrant and agree, on and as of the date hereof, that the representations and warranties made by the Company and the Operating Partnership, as applicable, in the underwriting agreement dated May 18, 2004 among the Company, the Operating Partnership and Lehman Brothers Inc. and the other underwriters named therein (the "Underwriting Agreement"), relating to the Series F Preferred Shares and the Series G Flexible Cumulative Redeemable Preferred Stock, are true, correct and complete in all material respects, as if made on the date hereof. In addition, the Company and the Operating Partnership represent, warrant and agree, (i) on and as of the date of filing and of effectiveness of any registration statement filed pursuant to this Agreement and on and as of the date of any amendment to any such registration statement, (ii) on and as of the date of any preliminary prospectus and on and as of the date of any supplement thereto distributed in connection with a Remarketing, (iii) on and as of the date of any final prospectus and on and as of the date of any supplement thereto distributed in connection with a Remarketing, (iv) on and as of any Election Date, (v) on and as of any Remarketing Date, and (vi) on and as of any Remarketing Settlement Date, (to the extent applicable) that:

(a) The registration statement under the Securities Act, including amendments thereto (File No. 333-57992) (the "Initial Registration Statement"), relating to certain securities (the "Shelf Securities") to be issued from time to time by the Company or the Operating Partnership, as the case may be, including the Series F Preferred Shares, was prepared by the Company and the Operating Partnership and filed with the Commission in conformity with all applicable requirements of the Securities Act and will contain all statements required to be stated therein in accordance with the Securities Act. The Initial Registration Statement was declared effective by the Commission on July 18, 2001. Any registration statement (other than the Initial Registration Statement) and any amendments thereto required under the Securities Act with respect to the applicable Remarketing and required to have been filed with the Commission have (i) been prepared by the Company and the Operating Partnership in conformity with the requirements of the Securities Act, (ii) been filed as required with the Commission under the Securities Act and (iii) become effective under the Securities Act. Copies of such registration statement(s) and any amendments thereto have been delivered by the Company to the Remarketing Agent.

(b) The prospectus supplement dated May 18, 2004 and the accompanying prospectus, dated August 23, 2001, relating to the initial offering of the Depositary Shares and 25,000 depositary shares each representing 1/100 of a share of the Series G Flexible Cumulative Redeemable Preferred Stock (Ten-Year Initial Fixed Rate Period) (the "Series G Preferred Shares," and together with the Series F Preferred Shares, the "Preferred Shares") having a liquidation preference equivalent to \$1,000 per depositary share of Series G Preferred Shares of

the Company, (collectively, the "Initial Prospectus"), were prepared by the Company and the Operating Partnership and filed with the Commission in conformity with the requirements of the Securities Act. Any preliminary prospectus and any final prospectus (other than the Initial Prospectus), and any supplements to any of the foregoing, required to have been prepared in connection with the applicable Remarketing have been prepared and filed with the Commission in conformity with the requirements of the Securities Act.

(c) Neither the Commission nor any state securities authority of any jurisdiction has issued, instigated a proceeding for or, to the knowledge of the Company, threatened, an order preventing or suspending the use of any registration statement, any preliminary prospectus or any final prospectus, or any amendment or supplement thereto, relating to the applicable Remarketing.

(d) Any registration statement (and any amendments thereto) relating to a Remarketing, at the time it became effective, and any preliminary prospectus, and any final prospectus (and any supplements to either of the foregoing) relating to the applicable Remarketing, as of their respective dates and as of the dates they were filed with the Commission, did not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements therein not misleading, except that the representations and warranties set forth in this Section 2(d) do not apply to information contained in any preliminary prospectus or any final prospectus (or any supplements to either of the foregoing) based upon information furnished to the Company or the Operating Partnership in writing by or on behalf of the Remarketing Agent expressly for use therein.

(e) The documents incorporated or deemed to be incorporated by reference in the prospectus pursuant to Item 12 of Form S-3 under the Securities Act, at the time they were, or hereafter are, filed with the Commission, complied and will comply in all material respects with the requirements of the Exchange Act, and, when read together with other information included in, and incorporated by reference in, an applicable prospectus, at the time an applicable registration statement became effective, as of the date of the prospectus and as of the date hereof, or during the period specified in Section 4(f) did not and will not include an untrue statement of a material fact or omit to state a material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading. The foregoing representations and warranties in this Section 2(e) do not apply to any statements or omissions made in reliance on and in conformity with information relating to the Remarketing Agent furnished in writing to the Company or the Operating Partnership by the Remarketing Agent specifically for inclusion in any applicable registration statement or applicable prospectus or any amendment or supplement thereto.

(f) Since the respective dates as of which information is given in a registration statement and final prospectus relating to a Remarketing (or any amendment or supplement thereto) and except as disclosed therein, (i) there has not been and will not have been, except as set forth in or contemplated by any applicable registration statement and any applicable prospectus, any change in the capitalization, long term or short term debt or in the capital stock or equity of each of the Company, the Operating Partnership or any of the Subsidiaries (as hereinafter defined) which would be material to the Company, the Operating Partnership and the Subsidiaries considered as one enterprise (anything which would be material to the Operating Partnership, the Company and the Subsidiaries, considered as one enterprise, being hereinafter referred to as "Material"), (ii) neither the Operating Partnership, the Company nor any of the Subsidiaries has incurred nor will any of them incur any liabilities or obligations, direct or contingent, which would be Material, nor has any of them entered into nor will any of them enter into any transactions, other than pursuant

to this Agreement and the transactions referred to herein or as contemplated in any applicable prospectus, which would be Material, (iii) there has not been any material adverse change in the condition (financial or otherwise), earnings, assets or business affairs or prospects of the Company, the Operating Partnership and the Subsidiaries taken as a whole or their properties (a "Material Adverse Effect"), (iv) except for regular quarterly distributions on the Company's shares of common stock, par value \$0.01 per share (the "Common Stock"), and the dividends on the shares of the Company's (a) Depositary Shares each representing 1/100 of a share of 8% Series C Cumulative Preferred Stock (the "Series C Preferred Stock"), (b) Depositary Shares each representing 1/100 of a share of 7.95% Series D Cumulative Preferred Stock (the "Series D Preferred Stock") and (c) Depositary Shares each representing 1/100 of a share of 7.90% Series E Cumulative Preferred Stock (the "Series E Preferred Stock"), the Company has not paid or declared and will not pay or declare any dividends or other distributions of any kind on any class of its capital stock, and (v) except for distributions in connection with regular quarterly distributions on partnership units, the Operating Partnership has not paid any distributions of any kind on its common or preferred partnership units.

(g) The Company is a corporation duly organized and validly existing under the laws of the State of Maryland, and has due corporate authority to carry on the real estate business in which it is engaged, to own and operate the properties used by it in such business and to enter into and perform its obligations under each of this Agreement, the remarketing agreement dated May 27, 2004 pertaining to the Series G Preferred Shares (the "Series G Remarketing Agreement"), the Series F Articles Supplementary, the Articles Supplementary dated May [], 2004 of the Company pertaining to the Series G Preferred Shares (the "Series G Articles Supplementary"), the Deposit Agreement, the deposit agreement dated May 27, 2004 pertaining to the Series G Preferred Shares (together with the Deposit Agreement, the "Deposit Agreements"), the calculation agreement dated May 27, 2004 pertaining to the Series F Preferred Shares (the "Calculation Agent Agreement") and the calculation agreement dated May 27, 2004 pertaining to the Series G Preferred Shares (together with the Calculation Agent Agreement, the "Calculation Agent Agreements"). Each of First Industrial Financing Partnership, L.P. (the "Financing Partnership"), First Industrial Securities, L.P. ("Securities, L.P."), First Industrial Mortgage Partnership, L.P. (the "Mortgage Partnership") and First Industrial Pennsylvania, L.P. ("FIP"), First Industrial Harrisburg, L.P. ("FIH") and First Industrial Indianapolis, L.P. ("FII") (the Financing Partnership, Securities, L.P., the Mortgage Partnership, FIH, FII and FIP are referred to collectively herein as the "Partnership Subsidiaries") has been duly organized and is validly existing as a limited partnership in good standing under and by virtue of the laws of its jurisdiction of organization. First Industrial Alrai, LLC ("FIA") has been duly organized and is validly existing as a limited liability company in good standing under and by virtue of the laws of its jurisdiction of organization. Each of First Industrial Securities Corporation ("FISC"), First Industrial Indianapolis Corporation ("FIIC"), First Industrial Finance Corporation ("FIFC"), First Industrial Mortgage Corporation ("FIMC"), First Industrial Development Services, Inc. ("FIDSI") and First Industrial Pennsylvania Corporation ("FIPC"), (FISC, FIIC, FIFC, FIMC, FIDSI and FIPC are referred to collectively herein as the "Corporate Subsidiaries," and the Partnership Subsidiaries and the Corporate Subsidiaries are referred to herein collectively as the "Subsidiaries" or individually as a "Subsidiary"), has been duly organized and is validly existing as a corporation in good standing under and by virtue of the laws of its jurisdiction of incorporation.

(h) The Company and each of the Corporate Subsidiaries is, and at any Remarketing Date will be, duly qualified or registered to do business and in good standing as a foreign corporation in all jurisdictions in which the nature of the activities conducted by it or the character of the properties and assets owned, leased or operated by it makes such qualification or

registration necessary, except where failure to obtain such qualifications or registration will not have a material adverse effect on (i) the condition, financial or otherwise, or the earnings, assets or business affairs or prospects of the Operating Partnership, Company and their Subsidiaries, taken as a whole or on the 825 in service properties owned, directly or indirectly, by the Company as of March 31, 2004 (collectively, the "Properties" or individually, a "Property") taken as a whole, (ii) the issuance, validity or enforceability of the Securities or (iii) the consummation of any of the transactions contemplated by this Agreement (each a material adverse effect), which jurisdictions of foreign qualification or registration are identified in Schedule III to the Underwriting Agreement.

(i) The Operating Partnership is a limited partnership duly organized and validly existing under the laws of the State of Delaware, and has due limited partnership authority to carry on the real estate business in which it is engaged and to enter into and perform its obligations under this Agreement.

(j) The Operating Partnership is duly qualified to transact business as a foreign company and is in good standing in any other jurisdiction in which such qualification is necessary, except to the extent that the failure to so qualify or be in good standing would not have a Material Adverse Effect.

(k) This Agreement has been duly authorized, executed, and delivered by the Company and the Operating Partnership.

(l) The Preferred Shares have been duly authorized by the Series F Articles Supplementary and the Series G Articles Supplementary and are validly issued and (subject to the terms of the Series F Articles Supplementary and the Series G Articles Supplementary) fully paid and non-assessable and conform in all material respects to all statements relating thereto contained in any applicable final prospectus (and any supplement thereto); the Preferred Shares are not subject to any preemptive or other similar right; and (subject to the terms of the Series F Articles Supplementary and the Series G Articles Supplementary) holders of Preferred Shares will be entitled to the same limitation of personal liability under Maryland law as extended to stockholders of private corporations for profit.

(m) The Deposit Agreements and the Calculation Agent Agreements have been duly and validly authorized, executed and delivered by the Company and, assuming due authorization, execution, and delivery by the Depositary and Calculation Agent, as the case may be, constitute valid and binding obligations of the Company, enforceable against the Company in accordance with their terms, except to the extent that enforcement thereof may be limited by the (1) bankruptcy, insolvency, reorganization, receivership, liquidation, fraudulent conveyance, moratorium or other similar laws affecting creditors' rights, generally, or (2) general principles of equity (regardless of whether enforcement is considered in a proceeding at law or in equity), and each of this Agreement, the Series G Remarketing Agreement, the Deposit Agreements and the Calculation Agent Agreements will conform in all material respects to all statements relating thereto contained in any applicable prospectus.

(n) Neither the Company, the Operating Partnership nor any of the Company's Subsidiaries is or, after giving effect to the applicable Remarketing, will be, an "investment company" or an entity "controlled" by an "investment company" within the meaning of the Investment Company Act of 1940, as amended (the "1940 Act").

(o) The execution, delivery and performance (i) by the Company and the Operating Partnership of this Agreement, the Series G Remarketing Agreement, the Preferred Shares and the Calculation Agent Agreements, to the extent they are a party thereto, and (ii) by the Company of the Series F Articles Supplementary, the Series G Articles Supplementary and the Deposit Agreements and the consummation by the Company and the Operating Partnership of the transactions contemplated herein and therein and compliance by the Company and the Operating Partnership with their respective obligations hereunder and thereunder have been duly authorized by all necessary action (corporate or otherwise) on the part of the Company and the Operating Partnership and do not and will not result in any violation of the charter or bylaws of the Company, the certificate of limited partnership and the agreement of limited partnership of the Operating Partnership, the Series F Articles Supplementary or the Series G Articles Supplementary and do not and will not conflict with, or result in a breach of any of the terms or provisions of, or constitute a default under, or result in the creation or imposition of any lien, charge or encumbrance, upon any property or assets of the Company under (A) any contract, indenture, mortgage, loan agreement, note, lease, or other agreement or instrument to which the Company or the Operating Partnership is a party, or by which either of them may be bound, or to which any of their properties may be subject (except for conflicts, breaches or defaults which would not, individually or in the aggregate, be materially adverse to the Company or materially adverse to the transactions contemplated by this Agreement), or (B) any existing applicable law, rule, regulation, judgment, order or decree of any government, governmental instrumentality or court, domestic or foreign, or any regulatory body or administrative agency or other governmental body having jurisdiction over the Company or any of its properties.

(p) No Material authorization, approval, consent or order of, or any filing or declaration with, any court or governmental authority or agency or any other entity is necessary in connection with the Company or the Operating Partnership entering into this Agreement or in connection with the applicable Remarketing or the transactions contemplated by this Agreement, except (A) such as may be required under, and have been obtained from, the Securities Act or the rules and regulations thereunder; (B) such as may be required under, and have been obtained from, Maryland General Corporation Law; and (C) such consents, approvals, authorizations, registrations, or qualifications as may be required under, and have been obtained from, state securities or "blue sky" laws.

(q) The financial statements, supporting schedules and related notes included in, or incorporated by reference in, any applicable registration statement, preliminary prospectus or final prospectus (and any amendments or supplements thereto) comply in all material respects with the requirements of the Securities Act and the Exchange Act, as applicable, and present fairly the consolidated financial condition of the entity or entities or group presented or included therein, as of the respective dates thereof, and its consolidated results of operations and cash flows for the respective periods covered thereby, are all in conformity with generally accepted accounting principles applied on a consistent basis throughout the entire period involved, except as otherwise disclosed in such prospectus. The financial information and data included in any applicable registration statement and any applicable prospectus present fairly the information included or incorporated by reference therein and have been prepared on a basis consistent, except as may be noted therein, with that of the financial statements, schedules and notes included or incorporated by reference in such registration statement and such prospectus and the books and records of the respective entity or entities or group presented or included therein. Except as otherwise noted in such prospectus, pro forma and/or as adjusted financial information included or incorporated by reference in such prospectus has been prepared in accordance with the applicable requirements of the Securities Act and the American Institute of Certified Public Accountants ("AICPA") guidelines with respect to pro forma and as adjusted financial

information, and includes all adjustments necessary to present fairly the pro forma and/or as adjusted financial condition of the entity or entities or group presented or included therein at the respective dates indicated and the results of operations and cash flows for the respective periods specified. The Company's and the Operating Partnership's ratio of combined fixed charges and preferred stock dividends to earnings included in such prospectus and in Exhibit 12 to such registration statement have been calculated in compliance with Item 503(d) of Regulation S-K of the Commission. No other financial statements (or schedules) of the Company, the Operating Partnership and their respective Subsidiaries or any predecessor of the Company and/or the Operating Partnership are required by the Securities Act or the Exchange Act to be included in such registration statement or such prospectus. PricewaterhouseCoopers LLP (the "Accountants") who have reported on such financial statements, schedules and related notes, are independent public accountants with respect to the Company, the Operating Partnership and their respective Subsidiaries as required by the Securities Act.

(r) As of an applicable Remarketing Date, the Company, the Operating Partnership and each of the Subsidiaries will have good and marketable title to all properties and assets described in an applicable prospectus as owned by it, free and clear of all liens, encumbrances, claims, security interests and defects, except such as are described in any applicable registration statement or prospectus, or such as secure the Company's loan facilities of the Operating Partnership, the Company and the Subsidiaries, or would not result in a Material Adverse Effect.

(s) To the knowledge of the Company: (i) no lessee of any portion of the Properties is in default under any of the leases governing such Properties and there is no event which, but for the passage of time or the giving of notice, or both, would constitute a default under any of such leases, except in each case such defaults that would not have a Material Adverse Effect; (ii) the current use and occupancy of each of the Properties complies in all material respects with all applicable codes and zoning laws and regulations, except for such failures to comply which would not individually or in the aggregate have a Material Adverse Effect; and (iii) there is no pending or threatened condemnation, zoning change, environmental or other proceeding or action that will in any material respect affect the size of, use of, improvements on, construction on, or access to the Properties except such proceedings or actions that would not have a Material Adverse Effect.

(t) The Operating Partnership, the Company and the Partnership Subsidiaries have property, title, casualty and liability insurance in favor of the Operating Partnership, the Company or the Partnership Subsidiaries with respect to each of the Properties, in an amount and on such terms as is reasonable and customary for businesses of the type conducted by the Operating Partnership, the Company and the Partnership Subsidiaries except in such instances where the tenant is carrying such insurance or the tenant is self-insuring such risks.

(u) Except as disclosed in any applicable prospectus, and, except for activities, conditions, circumstances or matters that would not have a Material Adverse Effect; (i) to the knowledge of the Company and the Subsidiaries, after due inquiry, the operations of the Operating Partnership, the Company and the Subsidiaries are in compliance with all Environmental Laws (as defined below) and all requirements of applicable permits, licenses, approvals and other authorizations issued pursuant to Environmental Laws; (ii) to the knowledge of the Operating Partnership, the Company and the Subsidiaries, after due inquiry, none of the Operating Partnership, the Company or the Subsidiaries has caused or suffered to occur any Release (as defined below) of any Hazardous Substance (as defined below) into the Environment (as defined below) on, in, under or from any Property, and no condition exists on, in, under or adjacent to any Property that could reasonably be expected to result in the incurrence of liabilities

under, or any violations of, any Environmental Law or give rise to the imposition of any Lien (as defined below), under any Environmental Law; (iii) none of the Operating Partnership, the Company or the Subsidiaries has received any written notice of a claim under or pursuant to any Environmental Law or under common law pertaining to Hazardous Substances on, in, under or originating from any Property; (iv) none of the Operating Partnership, the Company or the Subsidiaries has actual knowledge of, or received any written notice from any Governmental Authority (as defined below) claiming, any violation of any Environmental Law or a determination to undertake and/or request the investigation, remediation, clean-up or removal of any Hazardous Substance released into the Environment on, in, under or from any Property; and (v) no Property is included or, to the knowledge of the Operating Partnership, the Company or the Subsidiaries, after due inquiry, proposed for inclusion on the National Priorities List issued pursuant to CERCLA (as defined below) by the United States Environmental Protection Agency (the "EPA"), or included on the Comprehensive Environmental Response, Compensation, and Liability Information System database maintained by the EPA, and none of the Operating Partnership, the Company or the Subsidiaries has actual knowledge that any Property has otherwise been identified in a published writing by the EPA as a potential CERCLA removal, remedial or response site or, to the knowledge of the Company and its Subsidiaries, is included on any similar list of potentially contaminated sites pursuant to any other Environmental Law.

As used herein, "Hazardous Substance" shall include any hazardous substance, hazardous waste, toxic substance, pollutant or hazardous material, including, without limitation, oil, petroleum or any petroleum-derived substance or waste, asbestos or asbestos-containing materials, PCB's, pesticides, explosives, radioactive materials, dioxins, urea formaldehyde insulation or any constituent of any such substance, pollutant or waste which is subject to regulation under any Environmental Law (including, without limitation, materials listed in the United States Department of Transportation Optional Hazardous Material Table, 49 C.F.R. ss. 172.101, or in the EPA's List of Hazardous Substances and Reportable Quantities, 40 C.F.R. Part 302); "Environment" shall mean any surface water, drinking water, ground water, land surface, subsurface strata, river sediment, buildings, structures, and ambient, workplace and indoor and outdoor air; "Environmental Law" shall mean the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (42 U.S.C. ss. 9601 et seq.) ("CERCLA"), the Resource Conservation and Recovery Act of 1976, as amended (42 U.S.C. ss. 6901, et seq.), the Clean Air Act, as amended (42 U.S.C. ss. 7401, et seq.), the Clean Water Act, as amended (33 U.S.C. ss. 1251, et seq.), the Toxic Substances Control Act, as amended (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 Hazardous Materials Transportation Act, as amended (49 U.S.C. ss. 1801, et seq.), and all other federal, state and local laws, ordinances, regulations, rules and orders relating to the protection of the environment or of human health from environmental effects; "Governmental Authority" shall mean any federal, state or local governmental office, agency or authority having the duty or authority to promulgate, implement or enforce any Environmental Law; "Lien" shall mean, with respect to any Property, any mortgage, deed of trust, pledge, security interest, lien, encumbrance, penalty, fine, charge, assessment, judgment or other liability in, on or affecting such Property; and "Release" shall mean any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, emanating or disposing of any Hazardous Substance into the Environment, including, without limitation, the abandonment or discard of barrels, containers, tanks (including, without limitation, underground storage tanks) or other receptacles containing or previously containing and containing a residue of any Hazardous Substance.

None of the environmental consultants which prepared environmental and asbestos inspection reports with respect to any of the Properties was employed for such purpose on a

contingent basis or has any substantial interest in the Operating Partnership, the Company or any of the Subsidiaries, and none of them nor any of their directors, officers or employees is connected with the Operating Partnership, the Company or any of the Subsidiaries as a promoter, selling agent, voting trustee, director, officer or employee.

(v) The Depositary Shares and depositary shares representing Series G Preferred Shares will have an investment grade rating from one or more nationally recognized statistical rating organization(s).

(w) To the knowledge of the Company or the Operating Partnership, after due inquiry, except as set forth in any applicable registration statement or prospectus, there are no actions, suits, proceedings, investigations or inquiries, pending or, after due inquiry, threatened against or affecting the Operating Partnership or the Company or any of their Subsidiaries or any of their respective officers or directors in their capacity as such or of which any of their respective properties or assets is the subject or bound, before or by any Federal or state court, commission, regulatory body, administrative agency or other governmental body, domestic or foreign, wherein an unfavorable ruling, decision or finding would reasonably be expected to have a Material Adverse Effect.

(x) The Company and the Operating Partnership are organized and operate in a manner so that the Company qualifies as a real estate investment trust ("REIT") under Sections 856 through 860 of the Internal Revenue Code of 1986, as amended (the "Code"), and the Company has elected to be taxed as a REIT under the Code commencing with the taxable year ended December 31, 1994. The Company and the Operating Partnership intend to continue to be organized and operate so that the Company shall qualify as a REIT for the foreseeable future, unless the Company's board of trustees determines that it is no longer in the best interests of the Company to be so qualified.

(y) Each of the Operating Partnership and the Company has filed all federal, state, local and foreign income tax returns which have been required to be filed (except in any case in which the failure to so file would not result in a Material Adverse Effect) and has paid all taxes required to be paid and any other assessment, fine or penalty levied against it, to the extent that any of the foregoing would otherwise be delinquent, except, in all cases, for any such tax, assessment, fine or penalty that is being contested in good faith and except in any case in which the failure to so pay would not result in a Material Adverse Effect.

Section 3. Fees and Expenses. (a) For the performance of its services as Remarketing Agent in connection with Remarketings hereunder, the Company agrees to pay to the Remarketing Agent a fee on each Remarketing Settlement Date, in an amount customary for the types of services provided by the Remarketing Agent hereunder and as shall be mutually agreed upon between the Company and the Remarketing Agent.

(b) The Company agrees to pay (i) the costs incident to the preparation and filing of any registration statements and any amendments thereto required in connection with this Agreement; (ii) the costs incident to the preparation, printing, and distribution of any prospectus (preliminary or final) and any supplements thereto required in connection with this Agreement; (iii) the fees and expenses of qualifying Remarketed Securities under the securities laws of the several jurisdictions as provided in Section 4(g) and of preparing, printing, and distributing a blue sky survey (including related fees and expenses of counsel to the Remarketing Agent); (iv) all other costs and expenses incident to the performance of the obligations of the Company and the

Operating Partnership hereunder; and (v) the fees and expenses of counsel and accountants for the Company.

Section 4. Further Agreements of the Company. The Company agrees:

(a) To prepare any registration statement, preliminary prospectus or final prospectus, and any amendments and supplements thereto required in connection with any Remarketing, in a form reasonably acceptable to the Remarketing Agent and to file any such documents with the Commission pursuant to the Securities Act as required by the Securities Act.

(b) To advise the Remarketing Agent, promptly after it receives notice thereof, of the time when any registration statement or any amendment thereto has been filed with the Commission or becomes effective, and when any prospectus (preliminary or final) or any supplement thereto has been filed, in each such case excluding documents incorporated by reference therein; during the term of this Agreement and the Series G Remarketing Agreement, to file promptly all reports and any definitive proxy or information statements required to be filed by the Company and the Operating Partnership with the Commission pursuant to Section 13(a), 13(c), 14 or 15(d) of the Exchange Act; to advise the Remarketing Agent, promptly after it receives notice thereof, of the issuance by the Commission of any stop order with respect to any registration statement or amendment thereof filed in connection with this Agreement or the Series G Remarketing Agreement, or of any order preventing or suspending the use of any prospectus (preliminary or final) or any supplement thereto filed or prepared in connection with this Agreement or the Series G Remarketing Agreement, of the suspension of the qualification of any Remarketed Securities or Series G Preferred Shares for offering or sale in any jurisdiction, of the initiation or threatening of any proceeding for any such purpose, or of any request by the Commission for the amending or supplementing of any such registration statement or prospectus or amendment or supplement thereto or for additional information; and, in the event of the issuance of any stop order with respect to any registration statement or any amendment thereto or of any order preventing or suspending the use of any prospectus or supplement thereto or suspending any such qualification, to use promptly its best efforts to obtain its withdrawal.

(c) To furnish to the Remarketing Agent (i) conformed copies of any registration statement prepared in connection with this Agreement as originally filed with the Commission and each amendment thereto (in each case excluding exhibits), any preliminary or final prospectus prepared in connection with this Agreement and any supplements thereto; copies of the Series F Articles Supplementary, the Series G Articles Supplementary and the Calculation Agent Agreements, and any amendment to any thereof, and each report or other document mailed or made available to holders of Remarketed Securities; (ii) if the delivery of a prospectus is required at any time in connection with a Remarketing and if at such time any event has occurred as a result of which the prospectus as then supplemented would include any untrue statement of a material fact or omit to state any material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made when such prospectus is delivered, not misleading, or if for any other reason in the opinion of counsel to the Company or the Remarketing Agent it shall be necessary during such same period to amend or supplement the applicable registration statement or prospectus or to file under the Exchange Act any document incorporated by reference in the prospectus in order to comply with the Securities Act or the Exchange Act, to notify the Remarketing Agent and to file such document and to prepare and furnish without charge to the Remarketing Agent and to any dealer in Depositary Shares as many copies as the Remarketing Agent may from time to time reasonably request of an amended or supplemented prospectus which will correct such statement or omission or effect such

compliance; and (iii) such other information as the Remarketing Agent may reasonably request from time to time, in such form as the Remarketing Agent may reasonably request.

(d) To furnish to the Remarketing Agent, without charge, as many copies of any registration statement, preliminary prospectus or final prospectus prepared in connection with this Agreement, and any amendments and supplements thereto as the Remarketing Agent may reasonably request.

(e) Prior to making any amendment to any registration statement or supplement to any preliminary or final prospectus filed or prepared in connection with this Agreement and the Series G Remarketing Agreement, to furnish a copy thereof to the Remarketing Agent and counsel to the Remarketing Agent, and not effect any such amendment or supplement thereto to which the Remarketing Agent shall reasonably object by notice to the Company after a reasonable period to review.

(f) If, at any time on or after the commencement of a Remarketing and prior to the related Remarketing Settlement Date, any event shall occur or condition exist as a result of which it is necessary, in the opinion of counsel for the Remarketing Agent or counsel for the Company, to amend or supplement any preliminary or final prospectus in order that such preliminary or final prospectus will not include an untrue statement of a material fact or omit to state a material fact necessary in order to make the statements therein not misleading in light of the circumstances existing at the time it is delivered in connection with the Remarketing, or if it is necessary to amend any registration statement or supplement any preliminary or final prospectus to comply with applicable law, to promptly prepare such amendment or supplement as may be necessary to correct such untrue statement or omission or so that such document, as so amended or supplemented, will comply with applicable law and to furnish you such number of copies as the Remarketing Agent may reasonably request.

(g) Promptly from time to time to take such action as the Remarketing Agent may reasonably request to qualify the Remarketed Securities for offering and sale under the securities or "blue sky" laws of such jurisdictions as the Remarketing Agent may request and to comply with such laws so as to permit the continuance of sales and dealings therein in such jurisdictions for as long as may be necessary to complete the distribution of the Remarketed Securities; provided, that in connection therewith, the Company shall not be required to qualify as a foreign corporation or to file a general consent to service of process in any jurisdiction in which it is not so qualified or to submit to any requirements which it deems unduly burdensome.

(h) The Company will make generally available to its security holders as soon as reasonably practicable, but not later than 90 days after the close of the period covered thereby, an earnings statement of the Company (in form complying with the provisions of Rule 158 of the rules and regulations under the Securities Act) covering a twelve-month period beginning not later than the first day of the Company's fiscal quarter next following the "effective date" (as defined in Rule 158) of any registration statement filed in connection with this Agreement.

(i) During the period when a prospectus is required to be delivered under the Securities Act or the Exchange Act in connection with sale of Remarketed Securities, to file all documents required to be filed by it with the Commission pursuant to Section 13, 14 or 15 of the Exchange Act within the time periods required by the Exchange Act.

(j) The Company will use its best efforts to continue to qualify as a REIT under Sections 856 through 860 of the Code unless the Company's board of trustees determines that it is no longer in the best interests of the Company to be so qualified.

(k) The Company will use its reasonable best efforts to take all reasonable action necessary to enable Standard & Poor's Corporation ("S&P") and Moody's Investors Services, Inc. ("Moody's") or any other nationally recognized rating organization to provide their respective credit ratings.

Section 5. Conditions to the Remarketing Agent's Obligations. The obligations of the Remarketing Agent hereunder are subject to the accuracy, on and as of the date when made, of the representations and warranties of the Company and the Operating Partnership contained herein, to the performance by the Company and the Operating Partnership of their respective obligations hereunder, and to each of the following additional terms and conditions:

(a) The Remarketing Agent shall not have discovered and disclosed to the Company on or prior to the Remarketing Date, or during the period between the Remarketing Date and the Remarketing Settlement Date, that any applicable registration statement, preliminary prospectus or final prospectus or any amendment or supplement thereto contains any untrue statement of a fact which, in the opinion of Clifford Chance US LLP, or such other counsel for the Remarketing Agent, is material or omits to state any fact which, in the opinion of such counsel, is material and is required to be stated therein, or is necessary to make the statements therein not misleading.

(b) All corporate proceedings and other legal matters incident to the authorization, form and validity of this Agreement, the Series G Remarketing Agreement, the Series F Articles Supplementary, the Series G Articles Supplementary, the Deposit Agreements, the Preferred Shares, the Depositary Shares, any applicable registration statement, preliminary prospectus and/or final prospectus and any amendments or supplements thereto and all other legal matters relating to this Agreement and the transactions contemplated hereby shall be reasonably satisfactory in all respects to counsel for the Remarketing Agent, and the Company and the Operating Partnership shall have furnished to such counsel all documents and information that they may reasonably request to enable them to pass upon such matters.

(c) On any Remarketing Settlement Date, Cahill Gordon & Reindel LLP, or such other counsel satisfactory to the Remarketing Agent, shall have furnished to the Remarketing Agent their written opinion, as counsel to the Company and the Operating Partnership, addressed to the Remarketing Agent and dated such date, in form and substance to the effect set forth in Exhibit A hereto, and to the extent not to such effect, in form and substance reasonably acceptable to the Remarketing Agent.

(d) On any Remarketing Settlement Date, Barack Ferrazzano Kirschbaum, Perlman & Nagelberg, or such other counsel satisfactory to the Remarketing Agent, shall have furnished to the Remarketing Agent their written opinion, addressed to the Remarketing Agent and dated such date, in form and substance reasonably satisfactory to the Remarketing Agent, to the effect set forth in Exhibit B hereto and to such further effect as counsel to the Remarketing Agent may reasonably request.

(e) On any Remarketing Settlement Date, McGuire Woods L.L.P., or such other counsel satisfactory to the Remarketing Agent, shall have furnished to the Remarketing Agent their written opinion, on certain matters of Maryland law relating to the validity of the Preferred

Shares, addressed to the Remarketing Agent and dated such date, in form and substance reasonably satisfactory to the Remarketing Agent, to the effect set forth in Exhibit C hereto and to such further effect as counsel to the Remarketing Agent may reasonably request.

(f) On any Remarketing Settlement Date, Clifford Chance US LLP, or such other counsel satisfactory to the Remarketing Agent, shall have furnished to the Remarketing Agent their written opinion, addressed to the Remarketing Agent and dated such date, in form and substance reasonably satisfactory to the Remarketing Agent, to the effect set forth in Exhibit D hereto.

(g) On any Remarketing Settlement Date, PricewaterhouseCoopers, LLP, or such other firm of independent public accountants performing services for the Company, shall have furnished to the Remarketing Agent a "comfort letter" of such accountants, addressed to the Remarketing Agent and dated such date, in form and substance reasonably satisfactory to the Remarketing Agent.

(h) At the commencement date with respect to marketing efforts to investors in connection with any Remarketing (a "Commencement Date") and on the related Remarketing Date and Remarketing Settlement Date, there shall not have been, since the respective dates as of which information is given in any applicable registration statement or preliminary or final prospectus (or any amendment or supplement thereto), any material adverse change in the condition, financial or otherwise, or in the earnings or business affairs of the Company or the Operating Partnership and the Company's Subsidiaries considered as one enterprise, whether or not arising in the ordinary course of business, and the Remarketing Agent shall have received certificates of a Vice President of the Company and of the chief financial or chief accounting officer of the Company on behalf of the Company itself and as general partner of the Operating Partnership, and dated as of each such date, to the effect that (i) there has been no such material adverse change, (ii) the representations and warranties in Section 2 hereof are true and correct with the same force and effect as though expressly made at and as of the Remarketing Settlement Date and (iii) the Company and the Operating Partnership have complied in all material respects with all agreements and satisfied all conditions on their part to be performed or satisfied at or prior to such date.

(i) Subsequent to the execution and delivery of this Agreement and prior to any Remarketing Settlement Date, there shall not have occurred any downgrading, nor shall any notice have been given of (i) any intended or potential downgrading or (ii) any review or possible change that does not indicate an improvement in the rating accorded to the Preferred Shares by any "nationally recognized statistical rating organization," as such term is defined for purposes of Rule 436(g)(2) under the Securities Act.

(j) On any Remarketing Settlement Date, the Preferred Shares shall have the same ratings accorded by any "nationally recognized statistical organization," as defined by the Commission for purposes of Rule 436(g)(2) under the Securities Act, as when they were first issued, and the Company shall have delivered to the Remarketing Agent a letter, dated as of such date, from each such rating organization, or other evidence satisfactory to the Remarketing Agent, confirming that the Preferred Shares have such ratings. Since the date hereof, there shall not have occurred a downgrading in the rating assigned to the Preferred Shares or any of the Company's securities or the Operating Partnership's other securities by any such rating organization, and no such rating organization shall have publicly announced that it has under surveillance or review, with possible negative implications, its rating of the Preferred Shares or any of the Company's securities or the Operating Partnership's other securities.

(k) Without the prior written consent of the Remarketing Agent, the Series F Articles Supplementary and the Series G Articles Supplementary shall not have been amended in any manner, or otherwise contain any provision not contained therein as of the date hereof that, in the opinion of the Remarketing Agent, materially changes the nature of the Remarketed Securities or the Remarketing Procedures.

(l) Subsequent to the Commencement Date of any Remarketing, there shall not have occurred any of the following: (i) trading of any securities of or guaranteed by the Company and the Operating Partnership shall have been suspended on any exchange or in any over-the-counter market, (ii) trading in securities on the New York Stock Exchange, the American Stock Exchange, the National Association of Securities Dealers, Inc., the Chicago Board Options Exchange, the Chicago Mercantile Exchange or the Chicago Board of Trade shall have been generally suspended, or there shall have been a material disruption in settlement of securities generally, (iii) minimum or maximum ranges for prices shall have been generally established on the New York Stock Exchange by the Commission or by the New York Stock Exchange, (iiv) a general banking moratorium shall have been declared by federal or New York State authorities, (v) any major disruption of settlements of securities or clearance services in the United States; or (vi) there shall have occurred any outbreak or escalation of major hostilities in which the United States is involved, any declaration of war by the United States Congress or any other substantial national or international calamity, crisis or emergency (including without limitation, acts of terrorism) affecting the United States, in any such case provided for in clauses (i) through (vi) with the result that, in the reasonable judgment of the Remarketing Agent, the marketability of the Remarketed Securities shall have been materially impaired.

All opinions, letters, evidence, and certificates mentioned above or elsewhere in this Agreement shall be deemed to be in compliance with the provisions hereof only if they are in form and substance reasonably satisfactory to counsel for the Remarketing Agent.

Section 6. Indemnification. (a) The Company and the Operating Partnership jointly and severally agree to indemnify and hold harmless the Remarketing Agent, each of its directors, officers and employees and each person, if any, who controls the Remarketing Agent within the meaning of Section 15 of the Securities Act or Section 20(a) of the Exchange Act, against any and all losses, claims, damages or liabilities, joint or several, to which they or any of them may become subject under the Securities Act, Exchange Act or otherwise, and to reimburse the Remarketing Agent and such other persons, if any, for any legal or other expenses incurred by them in connection with defending any actions, insofar as such losses, claims, damages, liabilities or actions arise out of or are based upon any untrue statement or alleged untrue statement of a material fact contained in any registration statement, preliminary prospectus or final prospectus or in any amendments or supplements thereto, or in any filings pursuant to Section 13 or 14 of the Exchange Act which are incorporated by reference in any registration statement, preliminary prospectus or final prospectus as so amended or supplemented, or arise out of or are based upon any omission or alleged omission to state therein a material fact required to be stated therein or necessary to make the statements therein not misleading, except insofar as such losses, claims, damages, liabilities or actions arise out of or are based upon any such untrue statement or alleged untrue statement or omission or alleged omission which was made in such registration statement, preliminary prospectus or final prospectus in reliance upon and in conformity with information furnished in writing to the Company expressly for use therein and except that this indemnity with respect to any preliminary prospectus or final prospectus, if the Company and the Operating Partnership shall have furnished any amendment or supplement thereto, shall not inure to the benefit of the Remarketing Agent (or of any person controlling the Remarketing Agent) on account of any losses, claims, damages, liabilities or actions arising from the sale of the

Remarketed Securities to any person if a copy of the preliminary prospectus or the final prospectus (exclusive of documents incorporated therein by reference pursuant to Item 12 of Form S-3), as the same may then be amended or supplemented, shall not have been sent or given by or on behalf of the Remarketing Agent to such person with or prior to the written confirmation of the sale involved and the untrue statement or alleged untrue statement or omission or alleged omission was corrected in the final prospectus as supplemented or amended at the time of such confirmation; provided, that the foregoing indemnity with respect to any preliminary prospectus shall not inure to the benefit of the Remarketing Agent (or to the benefit of the person controlling such Remarketing Agent) from whom the person asserting any such losses, claims, damages or liabilities purchased Remarketed Securities if such untrue statement or omission or alleged untrue statement or omission made in such preliminary prospectus or preliminary prospectus supplement that was the cause of such losses, claims, damages or liabilities, is eliminated or remedied in the Prospectus (as amended or supplemented if the Company or the Operating Partnership shall have furnished any amendments or supplements thereto) and, if required by law, a copy of the Prospectus (as so amended or supplemented) shall not have been furnished to such person at or prior to the written confirmation of the sale of such Remarketed Securities to such person, provided further that the Company and the Operating Partnership shall have complied with their obligations under Section 4 hereof with respect to the Prospectus (as so amended or supplemented). The Remarketing Agent agrees, within ten days after the receipt by it of notice of the commencement of any action in respect of which indemnity may be sought by it, or by any other person entitled to indemnification hereunder, from the Company and the Operating Partnership on account of its agreement contained in this Section 6, to notify the Company and the Operating Partnership in writing of the commencement thereof, but the omission of the Remarketing Agent so to notify the Company and the Operating Partnership of any such action shall not release the Company and the Operating Partnership from any liability which it may have to the Remarketing Agent or to such controlling person otherwise than on account of the indemnity agreement contained in this Section 6. In case any such action shall be brought against the Remarketing Agent or any such other person entitled to indemnification hereunder, the Remarketing Agent shall notify the Company and the Operating Partnership of the commencement thereof as above provided, the Company and the Operating Partnership shall be entitled to participate in (and, to the extent that they shall wish, including the selection of counsel, to direct) the defense thereof, at their own expense. In case the Company and the Operating Partnership elect to direct such defense and select such counsel, the Remarketing Agent or any such other indemnified person shall have the right to employ its own counsel, but, in any such case, the fees and expenses of such counsel shall be at the expense of the Remarketing Agent or such other person unless the employment of such counsel has been authorized in writing by the Company and the Operating Partnership in connection with defending such action. No indemnifying party shall, without the written consent of the indemnified party, effect the settlement or compromise of, or consent to the entry of any judgment with respect to, any pending or threatened action or claim in respect of which indemnification may be sought hereunder (whether or not the indemnified party is an actual or potential party to such action or claim) unless such settlement, compromise or judgment (i) includes an unconditional release of the indemnified party from all liability arising out of such action or claim and (ii) does not include any statement as to, or an admission of, fault, culpability or a failure to act, by or on behalf of any indemnified party. In no event shall any indemnifying party have any liability or responsibility in respect of the settlement or compromise of, or consent to the entry of any judgment with respect to, any pending or threatened action or claim effected without its prior written consent.

(b) The Remarketing Agent agrees to indemnify and hold harmless the Company, its directors and such of its officers who have signed any registration statement filed pursuant to this Agreement, and each person, if any, who controls the Company or the Operating Partnership

within the meaning of Section 15 of the Securities Act or Section 20(a) of the Exchange Act to the same extent and upon the same terms as the indemnity agreement of the Company or the Operating Partnership set forth in Section 6(a) hereof, but only with respect to alleged untrue statements or omissions made in any registration statement, preliminary prospectus, or final prospectus, or such documents as amended or supplemented, in reliance upon and in conformity with information furnished in writing to the Company and the Operating Partnership by, or through, the Remarketing Agent expressly for use therein.

Section 7. Resignation and Removal of Remarketing Agent. The Remarketing Agent may resign and be discharged from its duties and obligations hereunder, and the Company may remove the Remarketing Agent, by giving 30 days' prior written notice, in the case of a resignation, to the Company and the Depositary Participant, and, in the case of a removal, such removed Remarketing Agent and the Depositary Participant; provided, however, that (i) the Company may not remove the Remarketing Agent unless (A) the Remarketing Agent becomes involved as debtor in a bankruptcy, insolvency or similar proceeding, (B) the Remarketing Agent shall not be among the five underwriters with the largest volume underwritten in dollars, on a lead or co-managed basis, of U.S. domestic preferred securities during the twelve-month period ended as of the last calendar quarter preceding the Scheduled Remarketing Date, (C) the Remarketing Agent shall be subject to any restriction preventing the performance of its obligations hereunder or (D) the distribution rates provided by the Remarketing Agent in connection with remarketings of securities by it in the twelve month period ended as of the end of the last calendar quarter preceding a Remarketing Date shall not be among the lowest remarketing distribution rates provided by the top three underwriters during such 12 month period and (ii) no such resignation nor any such removal shall become effective until the Company shall have appointed at least one nationally recognized broker-dealer as successor Remarketing Agent and such successor Remarketing Agent shall have entered into a remarketing agreement with the Company in which it shall have agreed to conduct the Remarketing in accordance with the Remarketing Procedures. In such case, the Company will use its best efforts to appoint a successor Remarketing Agent and enter into such a remarketing agreement with such person as soon as reasonably practicable. The provisions of Sections 3 and 6 shall survive the resignation or removal of the Remarketing Agent pursuant to this Agreement.

Section 8. Dealing in the Remarketed Securities. The Remarketing Agent, when acting as a Remarketing Agent or in its individual or any other capacity, may, to the extent permitted by law, buy, sell, hold and deal in any Remarketed Securities. Notwithstanding the foregoing, the Remarketing Agent is not obligated to purchase any Remarketed Securities that would otherwise remain unsold in a Remarketing. The Remarketing Agent may exercise any vote or join in any action which any beneficial owner of Remarketed Securities may be entitled to exercise or take pursuant to the Series F Articles Supplementary and the Series G Articles Supplementary with like effect as if it did not act in any capacity hereunder. The Remarketing Agent, in its individual capacity, either as principal or agent, may also engage in or have an interest in any financial or other transaction with the Company as freely as if it did not act in any capacity hereunder.

Section 9. Remarketing Agent's Performance; Duty of Care. The duties and obligations of the Remarketing Agent shall be determined solely by the express provisions of this Agreement, the Series G Remarketing Agreement, the Series F Articles Supplementary and the Series G Articles Supplementary. No implied covenants or obligations of or against the Remarketing Agent shall be read into this Agreement, the Series G Remarketing Agreement, the Series F Articles Supplementary or the Series G Articles Supplementary. In the absence of bad faith on the part of the Remarketing Agent, the Remarketing Agent may conclusively rely upon any document furnished to it, which purports to conform to the requirements of this Agreement, the Series G

Remarketing Agreement, the Series F Articles Supplementary or the Series G Articles Supplementary as to the truth of the statements expressed in any of such documents. The Remarketing Agent shall be protected in acting upon any document or communication reasonably believed by it to have been signed, presented or made by the proper party or parties. The Remarketing Agent, acting under this Agreement, shall incur no liability to the Company or to any holder of Remarketed Securities in its individual capacity or as Remarketing Agent for any action or failure to act, on its part in connection with a Remarketing or otherwise, except if such liability is judicially determined to have resulted from gross negligence or willful misconduct on its part.

Section 10. Termination. This Agreement shall terminate as to the Remarketing Agent on the effective date of the resignation or removal of the Remarketing Agent pursuant to Section 7.

In addition, the obligations of the Remarketing Agent hereunder with respect to a specific Remarketing may be terminated by it by notice given to the Company prior to 10:00 A.M., New York City time, on the applicable Remarketing Date if, prior to that time, any of the events described in Sections 5(h), (i), (j), (k) or (l) herein shall have occurred or if the Remarketing Agent shall decline to perform its obligations under this Agreement for any reason permitted hereunder.

The Company and the Operating Partnership may elect to terminate a specific Remarketing at any time prior to an Election Date with respect to such Remarketing.

Section 11. Notices. All statements, requests, notices and agreements hereunder shall be in writing, and:

(a) if to the Remarketing Agent, shall be delivered or sent by mail, telex or facsimile transmission to Lehman Brothers Inc., 745 7th Avenue, New York, New York 10019, Attention: Syndicate Department (Fax: (646) 758-2018);

(b) if to the Company or the Operating Partnership shall be delivered or sent by mail, telex or facsimile transmission to the address of the Company set forth in the prospectus or any supplement thereto, Attention: John H. Clayton, Esq. (Fax: (312) 922-9851).

Any such statements, requests, notices or agreements shall take effect at the time of receipt thereof.

Section 12. Persons Entitled to Benefit of Agreement. This Agreement shall inure to the benefit of and be binding upon the Remarketing Agent, the Company and their respective successors. This Agreement and the terms and provisions hereof are for the sole benefit of only those persons, except that (x) the representations, warranties, indemnities and agreements of the Company contained in this Agreement shall also be deemed to be for the benefit of the directors, officers and employees of the Remarketing Agent and the person or persons, if any, who control the Remarketing Agent within the meaning of Section 15 of the Securities Act and (y) the representations, warranties, indemnities and agreements of the Remarketing Agent contained in this Agreement shall be deemed to be for the benefit of directors, officers and employees of the Company and any person controlling the Company or the Operating Partnership within the meaning of Section 15 of the Securities Act. Nothing in this Agreement is intended or shall be construed to give any person, other than the persons referred to in this Section 12, any legal or

equitable right, remedy or claim under or in respect of this Agreement or any provision contained herein.

Section 13. Survival. The respective indemnities, representations, warranties and agreements of the Company, the Operating Partnership and the Remarketing Agent contained in this Agreement or made by or on behalf of them, respectively, pursuant to this Agreement shall survive the Remarketing and shall remain in full force and effect, regardless of any investigation made by or on behalf of any of them or any person controlling any of them.

Section 14. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of New York.

Section 15. Counterparts. This Agreement may be executed in one or more counterparts and, if executed in more than one counterpart, the executed counterparts shall each be deemed to be an original but all such counterparts shall together constitute one and the same instrument.

Section 16. Headings. The headings herein are inserted for convenience of reference only and are not intended to be part of, or to affect the meaning or interpretation of, this Agreement.

If the foregoing correctly sets forth the agreement between the Company and the Remarketing Agent, please indicate your acceptance in the space provided for that purpose below.

Very truly yours,

FIRST INDUSTRIAL REALTY TRUST, INC.

By: /s/ M. Havala

Name: Michael J. Havala
Title: Chief Financial Officer

FIRST INDUSTRIAL, L.P.

By: First Industrial Realty Trust, Inc.
as its sole general partner

By: /s/ M. Havala

Name: Michael J. Havala
Title: Chief Financial Officer

Accepted:

LEHMAN BROTHERS INC.

By: /s/ E.M. Callan

Name: Erin M. Callan
Title: Managing Director

FORM OF OPINION OF
COMPANY AND OPERATING PARTNERSHIP COUNSEL TO BE DELIVERED
PURSUANT TO SECTION 5(c)

1. The Company is duly qualified or registered as a foreign corporation to transact business and is in good standing in each jurisdiction identified where such qualification is required, and each Corporate Subsidiary is duly qualified or registered as a foreign corporation to transact business and is in good standing in each jurisdiction where such qualification is required, in each case except where the failure to obtain such qualification or registration will not have a Material Adverse Effect.

2. The Operating Partnership has been duly formed and is validly existing as a limited partnership in good standing under the laws of its state of organization. The Operating Partnership has all requisite partnership power and authority to own, lease and operate its properties and other assets and to conduct the business in which it is engaged and proposes to engage, in each case, as described in any applicable prospectus, and the Operating Partnership has the partnership power to enter into and perform its obligations under this Agreement, the Series G Remarketing Agreement and the Underwriting Agreement. The Operating Partnership is duly qualified or registered as a foreign partnership and is in good standing in each jurisdiction where such qualification is required, in each case except where the failure to obtain such qualification or registration will not have a Material Adverse Effect.

3. To the knowledge of such counsel, other than shares reserved for issuance pursuant to the Company's Shareholder Rights Plan, no shares of preferred stock of the Company are reserved for any purpose. To the knowledge of such counsel, there are no outstanding securities convertible into or exchangeable for any preferred stock of the Company and no outstanding options other than as provided in this Agreement, rights (preemptive or otherwise) or warrants to purchase or to subscribe for Depositary Shares of preferred stock of the Company. To the knowledge of such counsel, all of the outstanding partnership interests of the Operating Partnership has been duly authorized, validly issued and fully paid and, except for units not owned by the Company, are owned directly or indirectly by the Company or the Operating Partnership.

4. To the knowledge of such counsel, none of the Company or the Operating Partnership is in violation of or default under its charter, bylaws, certificate of limited partnership or partnership agreement, as the case may be, and none of such entities is in default in the performance or observance of any obligation, agreement, covenant or condition contained in any document (as in effect on the date of such opinion) listed as an exhibit to any applicable registration statement, each of the Company's and the Operating Partnership's Annual Report on Form 10-K for the year most recently ended or Quarterly Report on Form 10-Q for the quarter most recently ended, in each case as amended, if applicable, to which such entity is a party or by which such entity may be bound, or to which any of the property or assets of such entity or any Property is subject to or bound by (it being understood that (i) such counsel need express no opinion with respect to matters relating to any contract, indenture, mortgage, loan agreement, note lease, joint venture or partnership agreement or other instrument or agreement relating to the acquisition, transfer, operation, maintenance, management or financing of any property or assets of such entity or any other Property and (ii) such counsel may assume compliance with the financial covenants contained in any such

document), except in each case for violations or defaults which in the aggregate are not reasonably expected to have a Material Adverse Effect.

5. This Agreement, the Series G Remarketing Agreement and the Underwriting Agreement were duly and validly authorized, executed and delivered by each of the Company and the Operating Partnership and the Deposit Agreements and the Calculation Agent Agreements were duly and validly authorized executed and delivered by the Company.

6. Any applicable registration statement has been declared effective under the Securities Act, any applicable prospectus was filed with the Commission pursuant to Rule 424 of the Securities Act ("Rule 424"), within the applicable time period prescribed by Rule 424, and, to the knowledge of such counsel, no stop order suspending the effectiveness of any applicable registration statement or any applicable prospectus has been issued and no proceeding for that purpose is pending or threatened by the Commission.

7. The execution and delivery of this Agreement, the Series G Remarketing Agreement, the Series F Articles Supplementary, the Series G Articles Supplementary, the Deposit Agreements and the Calculation Agent Agreements and the issuance and sale of the Depositary Shares and the performance by the Company and the Operating Partnership of their respective obligations under the Depositary Shares, this Agreement, the Series G Remarketing Agreement, the Deposit Agreements and the Calculation Agent Agreements, to the extent they are a party thereto, did not and do not conflict with or constitute a breach or violation of or default under: (1) any document (as in effect as of the date of such opinion) listed as an exhibit to any applicable registration statement, each of the Company's Annual Report on Form 10-K for the year most recently ended or Quarterly Report on Form 10-Q for the quarter most recently ended, in each case as amended, if applicable, to which any such entity is a party or by which it or any of them or any of their respective properties or other assets may be bound or subject and of which such counsel is aware (it being understood that (i) such counsel need express no opinion with respect to matters relating to any contract, indenture, mortgage, loan agreement, note lease, joint venture or partnership agreement or other instrument or agreement relating to the acquisition, transfer, operation, maintenance, management or financing of any property or assets of such entity or any other Property and (ii) such counsel may assume compliance with the financial covenants contained in any such document); (2) the certificate of limited partnership or partnership agreement, as the case may be, of the Operating Partnership and the Financing Partnership or the articles of incorporation or bylaws, as the case may be, of the Company, FIFC or FISC; or (3) any applicable law, rule or administrative regulation, except in each case for conflicts, breaches, violations or defaults that in the aggregate are not reasonably expected to have a Material Adverse Effect.

8. To the knowledge of such counsel, no Material authorization, approval, consent or order of any court or governmental authority or agency or any other entity is required in connection with the remarketing of the Depositary Shares hereunder, except such as may be required under the Securities Act, the bylaws, corporate financing rule and conflict of interest rule of the NASD, or state securities, "blue sky" or real estate syndication laws, or such as have been received prior to the date of such opinion.

9. Any applicable registration statement, at the time it became effective and any applicable prospectus, as of the date hereof, in each case, other than the financial statements, including the notes and schedules thereto, or any other financial statistical data that is found in or derived from the internal accounting records of the Company, the Operating Partnership or their respective Subsidiaries set forth in or incorporated by reference therein, as to which

no opinion need be rendered, complied as to form in all material respects with the requirements of the Securities Act and the Exchange Act.

10. The purchasers of the Remarketed Securities are receiving good, valid and marketable title to the Depositary Shares, free and clear of all security interests, mortgages, pledges, liens, encumbrances, claims and equities if such purchasers acquire such Depositary Shares in good faith and without notice of any such security interests, mortgages, pledges, liens, encumbrances, claims or equities.

11. The information in any applicable prospectus under "Description of the Preferred Shares," "Certain United States Federal Income Tax Consequences," "Risk Factors," "Description of Preferred Stock," "Description of Depositary Shares," "Restrictions on Transfers of Capital Stock," and "Federal Income Tax Considerations" (as modified by the information in the Prospectus Supplement), to the extent that it constitutes statements of law, descriptions of statutes, rules or regulations, or summaries of documents or legal conclusions, has been reviewed by us and is correct in all material respects and presents fairly the information required to be disclosed therein.

12. To such counsel's knowledge, there is no document or contract of a character required to be described or referred to in any applicable Registration Statement and any applicable prospectus or to be filed as exhibits thereto by the Securities Act other than those described or referred to therein or filed as exhibits thereto, and the descriptions thereof or references thereto are accurate in all material respects.

13. The partnership agreement of each of the Operating Partnership, Securities, L.P. and the Financing Partnership has been duly authorized, validly executed and delivered by the Company, and is valid, legally binding and enforceable in accordance with its terms, subject to bankruptcy, insolvency, fraudulent transfer, reorganization, moratorium and similar laws of general applicability relating to or affecting creditors' rights and of general principles of equity (regardless of whether such enforceability is considered in a proceeding in equity or at law).

14. The Company and the Operating Partnership satisfy all conditions and requirements for filing any applicable registration statement on Form S-3 under the Securities Act.

15. The Company is not required to be registered as an investment company under the Investment Company Act of 1940, as amended.

16. We are of the opinion that, commencing with the Company's taxable year ended December 31, 1994, the Company has been organized and operated in conformity with the requirements for qualification and taxation as a REIT under the Code and the Company's current and proposed method of operation (as represented by the Company to us in a written certificate) will enable it to continue to meet the requirements for qualification and taxation as a REIT under the Code.

In addition, we have participated in conferences with officers and other representatives of the Company and the Operating Partnership, representatives of the independent public accountants for the Company and the Operating Partnership and representatives of the Remarketing Agent at which the contents of any applicable registration statement and any applicable prospectus and related matters were discussed. On the basis thereof, but without independent verification by such counsel of, and without passing upon or assuming any

responsibility for, the accuracy, completeness or fairness of the statements contained in any applicable registration statement or any applicable prospectus or any amendments or supplements thereto, no facts have come to the attention of such counsel that lead them to believe that (i) any applicable registration statement, including the documents incorporated therein by reference, at the time such Registration Statement became effective, contained any untrue statement of a material fact or omitted to state any material fact required to be stated therein or necessary in order to make the statements therein not misleading or (ii) any applicable prospectus, as of its date or at the Remarketing Date, contained or contains any untrue statement of a material fact or omitted or omits to state a material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading (it being understood that such counsel need express no opinion with respect to the financial statements, including the notes and schedules thereto, or any other financial or statistical data that is found in or derived from the internal accounting records of the Company, the Operating Partnership or their respective Subsidiaries set forth in or incorporated by reference into any applicable registration statement or any applicable prospectus).

* Such counsel may rely as to matters of Maryland law upon the opinion of McGuire Woods L.L.P.

** To the extent no registration statement or prospectus is required under the Securities Act in connection with the Remarketing, the foregoing opinions shall be revised as appropriate to reflect such fact.

FORM OF OPINION OF COUNSEL TO THE COMPANY
TO BE DELIVERED PURSUANT TO SECTION 5(d)

1. To the knowledge of such counsel, none of the Company or the Operating Partnership, FIMC, the Mortgage Partnership, FIPC or FIP is in violation of, or default in connection with the performance or observance of any obligation, agreement, covenant or condition contained in any or all of that certain Unsecured Revolving Credit Facility, dated as of September 27, 2002, among the Operating Partnership, as Borrower, the Company, as Guarantor and General Partner, Bank One, NA, and certain other banks as lenders, Banc One Capital Markets, Inc. as Lead Arranger and Sole Book Runner, Bank of America, N.A. as Syndication Agent, and Commerzbank AG, New York and Grand Cayman Branches and Wachovia Bank, N.A., as Documentation Agents (all such indebtedness collectively, the "Credit Documents"), except in each case for defaults that, in the aggregate, are not reasonably expected to have a Material Adverse Effect.

2. The execution and delivery of this Agreement, the performance of the obligations and consummation of transactions set forth herein and therein by the Company and the Operating Partnership did not and do not conflict with, or constitute a breach or violation of, or default under: (A) any or all of the Credit Documents; (B) any applicable law, rule or administrative regulation of the federal government (or agency thereof) of the United States; or (C) any order or administrative or court decree issued to or against, or concerning any or all of the Company, the Operating Partnership, the Partnership Subsidiaries and the Corporate Subsidiaries, of which, in the cases of clauses (B) and (C) above, such counsel is aware, except in each case for conflicts, breaches, violations or defaults that, in the aggregate, would not have a Material Adverse Effect.

3. To the knowledge of such counsel, there are no legal or governmental proceedings pending or threatened that do, or are likely to, have a Material Adverse Effect.

The information in the 10-K under Item 7 "Management's Discussion and Analysis of Financial Condition and Results of Operations--Mortgage Loans Payable" (other than information relating to a certain mortgage loan made available to First Industrial Financing Partnership, L.P. by Nomura Asset Capital Corporation) to the extent that it constitutes statements of law, descriptions of statutes, summaries of principal financing terms of Credit Documents or legal conclusions, has been reviewed by such counsel and is correct in all material respects and presents fairly the information disclosed therein.

* Such counsel may rely as to matters of Maryland law upon the opinion of McGuire Woods L.L.P., and as to matters of New York law upon the opinion of Cahill Gordon & Reindel LLP.

** To the extent no registration statement or prospectus is required under the Securities Act in connection with the Remarketing, the foregoing opinions shall be revised as appropriate to reflect such fact.

FORM OF OPINION OF SPECIAL MARYLAND COUNSEL TO THE COMPANY TO BE DELIVERED
PURSUANT TO SECTION 5(e)

1. Each of the Company and the Corporate Subsidiaries has been duly incorporated and is validly existing as a corporation in good standing under the laws of its respective jurisdiction of incorporation.

2. Each of the Company and the Corporate Subsidiaries has corporate power and authority to own, lease and operate its properties and other assets and to conduct the business in which it is engaged or proposes to engage, in each case, as described in any applicable prospectus, and the Company has the corporate power and authority to enter into and perform its obligations under this Agreement, the Series G Remarketing Agreement, the Deposit Agreements and the Calculation Agent Agreements.

3. The Company's authorized capitalization consists of 10,000,000 shares of preferred stock, par value \$.01 per share, 100,000,000 shares of common stock, par value \$.01 per share and 65,000,000 shares of excess stock, par value \$.01 per share. All of the issued and outstanding shares of capital stock of the Company have been duly authorized and are validly issued, fully paid and non-assessable. All the issued and outstanding shares of capital stock of the Corporate Subsidiaries have been duly authorized and are validly issued, fully paid and non-assessable and are owned by the Company.

4. Each of the Remarketed Securities has been duly authorized for issuance and sale pursuant to this Agreement and the Deposit Agreements, when validly issued and delivered pursuant to this Agreement against payment of the Purchase Price, will be duly authorized, validly issued, fully paid and non-assessable. To the extent Maryland law provides the basis for determination, each of the purchasers thereof is receiving good, valid and marketable title to the Remarketed Securities, free and clear of all security interests, mortgages, pledges, liens, encumbrances, claims and equities if such purchasers acquire such Remarketed Securities in good faith and without notice of any such security interests, mortgages, pledges, liens, encumbrances, claims or equities. The terms of the Remarketed Securities conform in all material respects to all statements and descriptions related thereto contained in any applicable registration statement, the Series F Articles Supplementary and any applicable prospectus. The form of depositary receipt used to evidence the Remarketed Securities are in due and proper form and comply in all material respects with all applicable legal requirements. The issuance of the Remarketed Securities is not subject to any preemptive or other similar rights arising under Maryland General Corporation Law, the Company's charter or bylaws, as amended to date, or any agreement of which such counsel is aware.

5. Each of this Agreement, the Series G Remarketing Agreement, the Series F Articles Supplementary, the Series G Articles Supplementary, the Deposit Agreements and the Calculation Agent Agreements was duly and validly authorized by the Company, on behalf of itself and the Operating Partnership.

6. The execution and delivery of this Agreement, the Series G Remarketing Agreement, the Series F Articles Supplementary, the Series G Articles Supplementary, the Deposit Agreements and the Calculation Agent Agreements, the performance of the obligations and the consummation of the transaction set forth herein and therein by the Company will not

require, to the knowledge of such counsel, any consent, approval, authorization or other order of any Maryland court, regulatory body, administrative agency or other governmental body (except as such may be required under the Securities Act or other securities laws) and did not and do not conflict with or constitute a breach or violation of or default under: (A) the charter or bylaws, as the case may be, of the Company; and (B) any applicable Maryland law, rule or administrative regulation or any order or administrative or court decree of which such counsel is aware, except in the case of clause (B) above for conflicts, breaches, violations or defaults that in the aggregate would not have a Material Adverse Effect.

7. To the knowledge of such counsel, no Material authorization, approval, consent or order of any Maryland court, governmental authority, agency or other entity is required in connection with the offering, issuance or sale of the Remarketed Securities hereunder, except such as may be required under Maryland securities, blue sky or real estate syndication laws.

8. The information in any applicable prospectus under "Certain Provisions of Maryland Law and First Industrial Realty Trust, Inc.'s Articles of Incorporation and Bylaws" and "Restrictions on Transfers of Capital Stock", and "Description of Preferred Stock" and in Part II of any applicable registration statement under Item 15, to the extent that it constitutes statements of law, descriptions of statutes, rules or regulations, summaries of documents or legal conclusions, has been reviewed by such counsel and, as to Maryland law, is correct in all material respects and presents fairly the information required to be disclosed therein.

9. The Company and each of the Corporate Subsidiaries was authorized to enter into the partnership agreement of each Partnership Subsidiary for which the Company, the Operating Partnership or such Corporate Subsidiary, as the case may be, is the general partner.

* Such counsel may rely as to matters of Illinois law upon the opinion of Barack Ferrazzano Kirschbaum, Perlman & Nagelberg and as to matters of New York law upon the opinion of Cahill Gordon & Reindel LLP.

** To the extent no registration statement or prospectus is required under the Securities Act in connection with the Remarketing, the foregoing opinions shall be revised as appropriate to reflect such fact.

FORM OF OPINION OF
CLIFFORD CHANCE US LLP TO BE DELIVERED
PURSUANT TO SECTION 5(f)

1. The Operating Partnership has been duly formed and is validly existing as a limited partnership in good standing under the laws of its state of organization.
2. The Company has been duly incorporated and is validly existing as a corporation in good standing under the laws of its respective jurisdiction of incorporation.
3. This Agreement and the Series G Remarketing Agreement were duly and validly authorized, executed and delivered by each of the Company and the Operating Partnership and the Deposit Agreements and the Calculation Agent Agreements were duly and validly authorized executed and delivered by the Company.
4. The Remarketed Securities conform in all material respects to the descriptions thereof in any applicable registration statement and any applicable prospectus under the caption "Description of Preferred Stock" and under the caption "Description of the Preferred Shares."
5. The purchasers of the Remarketed Securities are receiving good, valid and marketable title to the Remarketed Securities, free and clear of all security interests, mortgages, pledges, liens, encumbrances, claims and equities if such purchasers acquire such Remarketed Securities in good faith and without notice of any such security interests, mortgages, pledges, liens, encumbrances, claims or equities.

In addition, we have participated in conferences with officers and other representatives of the Company and the Operating Partnership, representatives of the independent public accountants for the Company and the Operating Partnership and representatives of the Remarketing Agent at which the contents of any applicable registration statement and any applicable prospectus and related matters were discussed. On the basis thereof, but without independent verification by such counsel of, and without passing upon or assuming any responsibility for, the accuracy, completeness or fairness of the statements contained in any applicable registration statement or any applicable prospectus or any amendments or supplements thereto, no facts have come to the attention of such counsel that lead them to believe that (i) any applicable registration statement, including the documents incorporated therein by reference, at the time such Registration Statement became effective, contained any untrue statement of a material fact or omitted to state any material fact required to be stated therein or necessary in order to make the statements therein not misleading or (ii) any applicable prospectus, as of its date or at the Remarketing Date, contained or contains any untrue statement of a material fact or omitted or omits to state a material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading (it being understood that such counsel need express no opinion with respect to the financial statements, including the notes and schedules thereto, or any other financial or statistical data that is found in or derived from the internal accounting records of the Company, the Operating Partnership or their respective Subsidiaries set forth in or incorporated by reference into any applicable registration statement or any applicable prospectus).

* Such counsel may rely as to matters of Illinois law upon the opinion of Barack Ferrazzano Kirschbaum, Perlman & Nagelberg, and as to matters of Maryland law upon the opinion of McGuire Wood L.L.P.

** To the extent no registration statement or prospectus is required under the Securities Act in connection with the Remarketing, the foregoing opinions shall be revised as appropriate to reflect such fact.

FIRST INDUSTRIAL REALTY TRUST, INC.

Depository Shares Each Representing 1/100 of a Share of
Series G Flexible Cumulative Redeemable Preferred Stock

(Ten-Year Initial Fixed Rate Period)
(Liquidation Preference Equivalent to \$1,000 Per Depository Share
of Series G Preferred Stock)

REMARKETING AGREEMENT

May 27, 2004

Lehman Brothers Inc.
745 7th Avenue
New York, New York 10019

Ladies and Gentlemen:

First Industrial Realty Trust, Inc., a Maryland corporation and real estate investment trust (the "Company"), is issuing today 25,000 Depository Shares (the "Depository Shares") each representing 1/100 of a share of Series G Flexible Cumulative Redeemable Preferred Stock (Ten-Year Initial Fixed Rate) (the "Series G Preferred Shares") having a liquidation preference equivalent to \$1,000 per Depository Share to be issued under a deposit agreement (the "Deposit Agreement") between the Company and EquiServe Trust Company, N.A., as Depository (the "Depository").

The Articles Supplementary, dated May 26, 2004, of the Company relating to the Series G Preferred Shares (the "Series G Articles Supplementary") provide for the possible Remarketing (as defined below) of the Depository Shares, on one or more occasions, at the option of the Company as contemplated in the Series G Articles Supplementary. As used in this remarketing agreement (the "Agreement"), the term "Remarketed Securities" means any Depository Shares offered in a Remarketing; the term "Remarketing Procedures" means the procedures specified in Section 2 of the Series G Articles Supplementary; and the term "Remarketing" means a remarketing of the Remarketed Securities pursuant to the Remarketing Procedures.

In connection with any Remarketing, the Company will, to the extent required under the Securities Act of 1933, as amended and the rules and regulations promulgated thereunder (the "Securities Act"), in connection with Remarketings of Remarketed Securities, prepare and file one or more registration statements under the Securities Act with the Securities and Exchange Commission (the "Commission") relating to Remarketed Securities, and any necessary amendments thereto, and will prepare one or more prospectuses (which may be preliminary or final) complying with the requirements of the Securities Act, and any necessary supplements thereto, and setting forth or including a description of the applicable terms of the Remarketed Securities, the terms of the applicable Remarketing, a description of the Company and such other information as may be required by the Securities Act.

Capitalized terms used and not defined in this Agreement shall have the meanings set forth in the Series G Articles Supplementary. Any reference in this Agreement to any registration statement or to any preliminary prospectus or final prospectus (or any amendments or supplements to any of the foregoing) shall be deemed to (i) refer to any such document as it may at the time be amended or supplemented and (ii) include any document filed under the Securities

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Exchange Act of 1934, as amended and the rules and regulations promulgated thereunder (the "Exchange Act"), and at the time incorporated by reference therein.

Section 1. Appointment and Obligations of the Remarketing Agent.

(a) The Company hereby appoints Lehman Brothers Inc. as exclusive remarketing agent (the "Remarketing Agent"), and Lehman Brothers Inc. accepts appointment as Remarketing Agent for the purpose of (i) remarketing Remarketed Securities on behalf of the holders thereof and (ii) performing such other duties as are assigned to the Remarketing Agent in the Remarketing Procedures, all in accordance with and pursuant to the Remarketing Procedures.

(b) The Remarketing Agent agrees (i) to use commercially reasonable efforts to remarket the Remarketed Securities tendered or deemed tendered to the Remarketing Agent in any Remarketing, (ii) to notify the Company of the new Fixed Rate, if any, established pursuant to any Remarketing and (iii) to carry out such other duties as are assigned to the Remarketing Agent in the Remarketing Procedures, all in accordance with the provisions of the Remarketing Procedures.

(c) On any date during which a Remarketing is being conducted, the

Remarketing Agent shall use commercially reasonable efforts to remarket, at a price equal to \$1,000 per Depositary Share, Remarketed Securities tendered or deemed tendered for purchase.

(d) If, as a result of the Remarketing Agent's efforts described in Section 1(c), the Remarketing Agent has determined on any date during which a Remarketing is being conducted that it will be able to remarket all Remarketed Securities tendered or deemed tendered for purchase at a price of \$1,000 per Depositary Share (including any accrued and unpaid distributions or interest, the "Remarketing Purchase Price") prior to 4:00 P.M., New York City time, on such date (any such date of determination, a "Remarketing Date"), the Remarketing Agent shall determine the Fixed Rate resulting from such Remarketing and to be applicable to the next succeeding Distribution Period, which shall be the rate per annum (rounded to the nearest one-thousandth (0.001) of one percent per annum) which the Remarketing Agent determines, in its sole judgment, to be the lowest rate per annum, if any, that will enable it to remarket all Remarketed Securities tendered or deemed tendered for Remarketing at the Remarketing Purchase Price.

(e) If any holder of Remarketed Securities submits a Notice of Election to tender some or all of its Depositary Shares in a Remarketing and separately notifies the Remarketing Agent that such holder desires to continue to hold a number of Depositary Shares, but only if the Fixed Rate determined by the applicable Remarketing is not less than a specified rate per annum, the Remarketing Agent shall give priority to such holder's purchase of such number of Remarketed Securities in the Remarketing, provided that the new Fixed Rate is not less than such specified rate.

(f) By approximately 4:30 P.M., New York City time, on a Remarketing Date, the Remarketing Agent shall advise, by telephone, (i) the Depository Trust Company (the "DTC") participant who will receive a credit for the Depositary Shares on DTC's records (the "Depository Participant"), the Company and the Calculation Agent of any new Fixed Rate established pursuant to the Remarketing and the number of Remarketed Securities sold in the Remarketing, (ii) each purchaser of Remarketed Securities (or the Depository Participant thereof) of such new Fixed Rate and the number of Remarketed Securities such purchaser is to purchase and (iii) each purchaser to give instructions to its Depository Participant to pay the purchase price on the

Remarketing Settlement Date in same day funds against delivery of the Remarketed Securities purchased through the facilities of the Depository Participant.

(g) If, by 4:00 P.M., New York City time, on the third business day prior to the Remarketing Settlement Date applicable to the Remarketing (such third business day, a "Remarketing Expiration Date") the Remarketing Agent is unable to remarket all Remarketed Securities tendered or deemed tendered for purchase at the Remarketing Price, the Remarketing Agent shall, by approximately 4:30 P.M., New York City time, on such date, advise by telephone the Depository Participant, the Company and the Calculation Agent that the Distribution Rate for the Series G Preferred Shares for the next succeeding Distribution Period will be a Floating Rate determined in accordance with the Series G Articles Supplementary.

Section 2. Representations, Warranties and Agreements of the Company. The Company and First Industrial, L.P., a Delaware limited partnership (the "Operating Partnership"), jointly and severally represent, warrant and agree, on and as of the date hereof, that the representations and warranties made by the Company and the Operating Partnership, as applicable, in the underwriting agreement dated May 18, 2004 among the Company, the Operating Partnership and Lehman Brothers Inc. and the other underwriters named therein (the "Underwriting Agreement"), relating to the Series G Preferred Shares and the Series F Flexible Cumulative Redeemable Preferred Stock, are true, correct and complete in all material respects, as if made on the date hereof. In addition, the Company and the Operating Partnership represent, warrant and agree, (i) on and as of the date of filing and of effectiveness of any registration statement filed pursuant to this Agreement and on and as of the date of any amendment to any such registration statement, (ii) on and as of the date of any preliminary prospectus and on and as of the date of any supplement thereto distributed in connection with a Remarketing, (iii) on and as of the date of any final prospectus and on and as of the date of any supplement thereto distributed in connection with a Remarketing, (iv) on and as of any Election Date, (v) on and as of any Remarketing Date, and (vi) on and as of any Remarketing Settlement Date, (to the extent applicable) that:

(a) The registration statement under the Securities Act, including amendments thereto (File No. 333-57992) (the "Initial Registration Statement"), relating to certain securities (the "Shelf Securities") to be issued from time to time by the Company or the Operating Partnership, as the case may be, including the Series G Preferred Shares, was prepared by the Company and the Operating Partnership and filed with the Commission in conformity with all applicable requirements of the Securities Act and will contain all statements required to be stated therein in accordance with the Securities Act. The Initial Registration Statement was declared effective by the Commission on July 18, 2001. Any registration statement (other than the Initial Registration Statement) and any amendments thereto required under the Securities Act with respect to the applicable Remarketing and required to have been filed with the Commission have (i) been prepared by the Company and the Operating Partnership in conformity with the requirements of the Securities Act, (ii) been filed as required with the Commission under the Securities Act and (iii) become effective under the Securities Act. Copies of such registration statement(s) and any amendments thereto have been delivered by the Company to the Remarketing Agent.

(b) The prospectus supplement dated May 18, 2004 and the accompanying prospectus, dated August 23, 2001, relating to the initial offering of the Depository Shares and 50,000 depository shares each representing 1/100 of a share of the Series F Flexible Cumulative Redeemable Preferred Stock (Five-Year Initial Fixed Rate Period) (the "Series F Preferred Shares," and together with the Series G Preferred Shares, the "Preferred Shares") having a liquidation preference equivalent to \$1,000 per depository share of Series F Preferred Shares of

the Company, (collectively, the "Initial Prospectus"), were prepared by the Company and the Operating Partnership and filed with the Commission in conformity with the requirements of the Securities Act. Any preliminary prospectus and any final prospectus (other than the Initial Prospectus), and any supplements to any of the foregoing, required to have been prepared in connection with the applicable Remarketing have been prepared and filed with the Commission in conformity with the requirements of the Securities Act.

(c) Neither the Commission nor any state securities authority of any jurisdiction has issued, instigated a proceeding for or, to the knowledge of the Company, threatened, an order preventing or suspending the use of any registration statement, any preliminary prospectus or any final prospectus, or any amendment or supplement thereto, relating to the applicable Remarketing.

(d) Any registration statement (and any amendments thereto) relating to a Remarketing, at the time it became effective, and any preliminary prospectus, and any final prospectus (and any supplements to either of the foregoing) relating to the applicable Remarketing, as of their respective dates and as of the dates they were filed with the Commission, did not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements therein not misleading, except that the representations and warranties set forth in this Section 2(d) do not apply to information contained in any preliminary prospectus or any final prospectus (or any supplements to either of the foregoing) based upon information furnished to the Company or the Operating Partnership in writing by or on behalf of the Remarketing Agent expressly for use therein.

(e) The documents incorporated or deemed to be incorporated by reference in the prospectus pursuant to Item 12 of Form S-3 under the Securities Act, at the time they were, or hereafter are, filed with the Commission, complied and will comply in all material respects with the requirements of the Exchange Act, and, when read together with other information included in, and incorporated by reference in, an applicable prospectus, at the time an applicable registration statement became effective, as of the date of the prospectus and as of the date hereof, or during the period specified in Section 4(f) did not and will not include an untrue statement of a material fact or omit to state a material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading. The foregoing representations and warranties in this Section 2(e) do not apply to any statements or omissions made in reliance on and in conformity with information relating to the Remarketing Agent furnished in writing to the Company or the Operating Partnership by the Remarketing Agent specifically for inclusion in any applicable registration statement or applicable prospectus or any amendment or supplement thereto.

(f) Since the respective dates as of which information is given in a registration statement and final prospectus relating to a Remarketing (or any amendment or supplement thereto) and except as disclosed therein, (i) there has not been and will not have been, except as set forth in or contemplated by any applicable registration statement and any applicable prospectus, any change in the capitalization, long term or short term debt or in the capital stock or equity of each of the Company, the Operating Partnership or any of the Subsidiaries (as hereinafter defined) which would be material to the Company, the Operating Partnership and the Subsidiaries considered as one enterprise (anything which would be material to the Operating Partnership, the Company and the Subsidiaries, considered as one enterprise, being hereinafter referred to as "Material"), (ii) neither the Operating Partnership, the Company nor any of the Subsidiaries has incurred nor will any of them incur any liabilities or obligations, direct or contingent, which would be Material, nor has any of them entered into nor will any of them enter into any transactions, other than pursuant

to this Agreement and the transactions referred to herein or as contemplated in any applicable prospectus, which would be Material, (iii) there has not been any material adverse change in the condition (financial or otherwise), earnings, assets or business affairs or prospects of the Company, the Operating Partnership and the Subsidiaries taken as a whole or their properties (a "Material Adverse Effect"), (iv) except for regular quarterly distributions on the Company's shares of common stock, par value \$0.01 per share (the "Common Stock"), and the dividends on the shares of the Company's (a) Depositary Shares each representing 1/100 of a share of 8% Series C Cumulative Preferred Stock (the "Series C Preferred Stock"), (b) Depositary Shares each representing 1/100 of a share of 7.95% Series D Cumulative Preferred Stock (the "Series D Preferred Stock") and (c) Depositary Shares each representing 1/100 of a share of 7.90% Series E Cumulative Preferred Stock (the "Series E Preferred Stock"), the Company has not paid or declared and will not pay or declare any dividends or other distributions of any kind on any class of its capital stock, and (v) except for distributions in connection with regular quarterly distributions on partnership units, the Operating Partnership has not paid any distributions of any kind on its common or preferred partnership units.

(g) The Company is a corporation duly organized and validly existing under the laws of the State of Maryland, and has due corporate authority to carry on the real estate business in which it is engaged, to own and operate the properties used by it in such business and to enter into and perform its obligations under each of this Agreement, the remarketing agreement dated May 27, 2004 pertaining to the Series F Preferred Shares (the "Series F Remarketing Agreement"), the Series G Articles Supplementary, the Articles Supplementary dated May [], 2004 of the Company pertaining to the Series F Preferred Shares (the "Series F Articles Supplementary"), the Deposit Agreement, the deposit agreement dated May 27, 2004 pertaining to the Series F Preferred Shares (together with the Deposit Agreement, the "Deposit Agreements"), the calculation agreement dated May 27, 2004 pertaining to the Series G Preferred Shares (the "Calculation Agent Agreement") and the calculation agreement dated May 27, 2004 pertaining to the Series F Preferred Shares (together with the Calculation Agent Agreement, the "Calculation Agent Agreements"). Each of First Industrial Financing Partnership, L.P. (the "Financing Partnership"), First Industrial Securities, L.P. ("Securities, L.P."), First Industrial Mortgage Partnership, L.P. (the "Mortgage Partnership") and First Industrial Pennsylvania, L.P. ("FIP"), First Industrial Harrisburg, L.P. ("FIH") and First Industrial Indianapolis, L.P. ("FII") (the Financing Partnership, Securities, L.P., the Mortgage Partnership, FIH, FII and FIP are referred to collectively herein as the "Partnership Subsidiaries") has been duly organized and is validly existing as a limited partnership in good standing under and by virtue of the laws of its jurisdiction of organization. First Industrial Alrai, LLC ("FIA") has been duly organized and is validly existing as a limited liability company in good standing under and by virtue of the laws of its jurisdiction of organization. Each of First Industrial Securities Corporation ("FISC"), First Industrial Indianapolis Corporation ("FIIC"), First Industrial Finance Corporation ("FIFC"), First Industrial Mortgage Corporation ("FIMC"), First Industrial Development Services, Inc. ("FIDSI") and First Industrial Pennsylvania Corporation ("FIPC"), (FISC, FIIC, FIFC, FIMC, FIDSI and FIPC are referred to collectively herein as the "Corporate Subsidiaries," and the Partnership Subsidiaries and the Corporate Subsidiaries are referred to herein collectively as the "Subsidiaries" or individually as a "Subsidiary"), has been duly organized and is validly existing as a corporation in good standing under and by virtue of the laws of its jurisdiction of incorporation.

(h) The Company and each of the Corporate Subsidiaries is, and at any Remarketing Date will be, duly qualified or registered to do business and in good standing as a foreign corporation in all jurisdictions in which the nature of the activities conducted by it or the character of the properties and assets owned, leased or operated by it makes such qualification or

registration necessary, except where failure to obtain such qualifications or registration will not have a material adverse effect on (i) the condition, financial or otherwise, or the earnings, assets or business affairs or prospects of the Operating Partnership, Company and their Subsidiaries, taken as a whole or on the 825 in service properties owned, directly or indirectly, by the Company as of March 31, 2004 (collectively, the "Properties" or individually, a "Property") taken as a whole, (ii) the issuance, validity or enforceability of the Securities or (iii) the consummation of any of the transactions contemplated by this Agreement (each a material adverse effect), which jurisdictions of foreign qualification or registration are identified in Schedule III to the Underwriting Agreement.

(i) The Operating Partnership is a limited partnership duly organized and validly existing under the laws of the State of Delaware, and has due limited partnership authority to carry on the real estate business in which it is engaged and to enter into and perform its obligations under this Agreement.

(j) The Operating Partnership is duly qualified to transact business as a foreign company and is in good standing in any other jurisdiction in which such qualification is necessary, except to the extent that the failure to so qualify or be in good standing would not have a Material Adverse Effect.

(k) This Agreement has been duly authorized, executed, and delivered by the Company and the Operating Partnership.

(l) The Preferred Shares have been duly authorized by the Series F Articles Supplementary and the Series G Articles Supplementary and are validly issued and (subject to the terms of the Series F Articles Supplementary and the Series G Articles Supplementary) fully paid and non-assessable and conform in all material respects to all statements relating thereto contained in any applicable final prospectus (and any supplement thereto); the Preferred Shares are not subject to any preemptive or other similar right; and (subject to the terms of the Series F Articles Supplementary and the Series G Articles Supplementary) holders of Preferred Shares will be entitled to the same limitation of personal liability under Maryland law as extended to stockholders of private corporations for profit.

(m) The Deposit Agreements and the Calculation Agent Agreements have been duly and validly authorized, executed and delivered by the Company and, assuming due authorization, execution, and delivery by the Depositary and Calculation Agent, as the case may be, constitute valid and binding obligations of the Company, enforceable against the Company in accordance with their terms, except to the extent that enforcement thereof may be limited by the (1) bankruptcy, insolvency, reorganization, receivership, liquidation, fraudulent conveyance, moratorium or other similar laws affecting creditors' rights, generally, or (2) general principles of equity (regardless of whether enforcement is considered in a proceeding at law or in equity), and each of this Agreement, the Series F Remarketing Agreement, the Deposit Agreements and the Calculation Agent Agreements will conform in all material respects to all statements relating thereto contained in any applicable prospectus.

(n) Neither the Company, the Operating Partnership nor any of the Company's Subsidiaries is or, after giving effect to the applicable Remarketing, will be, an "investment company" or an entity "controlled" by an "investment company" within the meaning of the Investment Company Act of 1940, as amended (the "1940 Act").

(o) The execution, delivery and performance (i) by the Company and the Operating Partnership of this Agreement, the Series F Remarketing Agreement, the Preferred Shares and the Calculation Agent Agreements, to the extent they are a party thereto, and (ii) by the Company of the Series F Articles Supplementary, the Series G Articles Supplementary and the Deposit Agreements and the consummation by the Company and the Operating Partnership of the transactions contemplated herein and therein and compliance by the Company and the Operating Partnership with their respective obligations hereunder and thereunder have been duly authorized by all necessary action (corporate or otherwise) on the part of the Company and the Operating Partnership and do not and will not result in any violation of the charter or bylaws of the Company, the certificate of limited partnership and the agreement of limited partnership of the Operating Partnership, the Series F Articles Supplementary or the Series G Articles Supplementary and do not and will not conflict with, or result in a breach of any of the terms or provisions of, or constitute a default under, or result in the creation or imposition of any lien, charge or encumbrance, upon any property or assets of the Company under (A) any contract, indenture, mortgage, loan agreement, note, lease, or other agreement or instrument to which the Company or the Operating Partnership is a party, or by which either of them may be bound, or to which any of their properties may be subject (except for conflicts, breaches or defaults which would not, individually or in the aggregate, be materially adverse to the Company or materially adverse to the transactions contemplated by this Agreement), or (B) any existing applicable law, rule, regulation, judgment, order or decree of any government, governmental instrumentality or court, domestic or foreign, or any regulatory body or administrative agency or other governmental body having jurisdiction over the Company or any of its properties.

(p) No Material authorization, approval, consent or order of, or any filing or declaration with, any court or governmental authority or agency or any other entity is necessary in connection with the Company or the Operating Partnership entering into this Agreement or in connection with the applicable Remarketing or the transactions contemplated by this Agreement, except (A) such as may be required under, and have been obtained from, the Securities Act or the rules and regulations thereunder; (B) such as may be required under, and have been obtained from, Maryland General Corporation Law; and (C) such consents, approvals, authorizations, registrations, or qualifications as may be required under, and have been obtained from, state securities or "blue sky" laws.

(q) The financial statements, supporting schedules and related notes included in, or incorporated by reference in, any applicable registration statement, preliminary prospectus or final prospectus (and any amendments or supplements thereto) comply in all material respects with the requirements of the Securities Act and the Exchange Act, as applicable, and present fairly the consolidated financial condition of the entity or entities or group presented or included therein, as of the respective dates thereof, and its consolidated results of operations and cash flows for the respective periods covered thereby, are all in conformity with generally accepted accounting principles applied on a consistent basis throughout the entire period involved, except as otherwise disclosed in such prospectus. The financial information and data included in any applicable registration statement and any applicable prospectus present fairly the information included or incorporated by reference therein and have been prepared on a basis consistent, except as may be noted therein, with that of the financial statements, schedules and notes included or incorporated by reference in such registration statement and such prospectus and the books and records of the respective entity or entities or group presented or included therein. Except as otherwise noted in such prospectus, pro forma and/or as adjusted financial information included or incorporated by reference in such prospectus has been prepared in accordance with the applicable requirements of the Securities Act and the American Institute of Certified Public Accountants ("AICPA") guidelines with respect to pro forma and as adjusted financial

information, and includes all adjustments necessary to present fairly the pro forma and/or as adjusted financial condition of the entity or entities or group presented or included therein at the respective dates indicated and the results of operations and cash flows for the respective periods specified. The Company's and the Operating Partnership's ratio of combined fixed charges and preferred stock dividends to earnings included in such prospectus and in Exhibit 12 to such registration statement have been calculated in compliance with Item 503(d) of Regulation S-K of the Commission. No other financial statements (or schedules) of the Company, the Operating Partnership and their respective Subsidiaries or any predecessor of the Company and/or the Operating Partnership are required by the Securities Act or the Exchange Act to be included in such registration statement or such prospectus. PricewaterhouseCoopers LLP (the "Accountants") who have reported on such financial statements, schedules and related notes, are independent public accountants with respect to the Company, the Operating Partnership and their respective Subsidiaries as required by the Securities Act.

(r) As of an applicable Remarketing Date, the Company, the Operating Partnership and each of the Subsidiaries will have good and marketable title to all properties and assets described in an applicable prospectus as owned by it, free and clear of all liens, encumbrances, claims, security interests and defects, except such as are described in any applicable registration statement or prospectus, or such as secure the Company's loan facilities of the Operating Partnership, the Company and the Subsidiaries, or would not result in a Material Adverse Effect.

(s) To the knowledge of the Company: (i) no lessee of any portion of the Properties is in default under any of the leases governing such Properties and there is no event which, but for the passage of time or the giving of notice, or both, would constitute a default under any of such leases, except in each case such defaults that would not have a Material Adverse Effect; (ii) the current use and occupancy of each of the Properties complies in all material respects with all applicable codes and zoning laws and regulations, except for such failures to comply which would not individually or in the aggregate have a Material Adverse Effect; and (iii) there is no pending or threatened condemnation, zoning change, environmental or other proceeding or action that will in any material respect affect the size of, use of, improvements on, construction on, or access to the Properties except such proceedings or actions that would not have a Material Adverse Effect.

(t) The Operating Partnership, the Company and the Partnership Subsidiaries have property, title, casualty and liability insurance in favor of the Operating Partnership, the Company or the Partnership Subsidiaries with respect to each of the Properties, in an amount and on such terms as is reasonable and customary for businesses of the type conducted by the Operating Partnership, the Company and the Partnership Subsidiaries except in such instances where the tenant is carrying such insurance or the tenant is self-insuring such risks.

(u) Except as disclosed in any applicable prospectus, and, except for activities, conditions, circumstances or matters that would not have a Material Adverse Effect; (i) to the knowledge of the Company and the Subsidiaries, after due inquiry, the operations of the Operating Partnership, the Company and the Subsidiaries are in compliance with all Environmental Laws (as defined below) and all requirements of applicable permits, licenses, approvals and other authorizations issued pursuant to Environmental Laws; (ii) to the knowledge of the Operating Partnership, the Company and the Subsidiaries, after due inquiry, none of the Operating Partnership, the Company or the Subsidiaries has caused or suffered to occur any Release (as defined below) of any Hazardous Substance (as defined below) into the Environment (as defined below) on, in, under or from any Property, and no condition exists on, in, under or adjacent to any Property that could reasonably be expected to result in the incurrence of liabilities

under, or any violations of, any Environmental Law or give rise to the imposition of any Lien (as defined below), under any Environmental Law; (iii) none of the Operating Partnership, the Company or the Subsidiaries has received any written notice of a claim under or pursuant to any Environmental Law or under common law pertaining to Hazardous Substances on, in, under or originating from any Property; (iv) none of the Operating Partnership, the Company or the Subsidiaries has actual knowledge of, or received any written notice from any Governmental Authority (as defined below) claiming, any violation of any Environmental Law or a determination to undertake and/or request the investigation, remediation, clean-up or removal of any Hazardous Substance released into the Environment on, in, under or from any Property; and (v) no Property is included or, to the knowledge of the Operating Partnership, the Company or the Subsidiaries, after due inquiry, proposed for inclusion on the National Priorities List issued pursuant to CERCLA (as defined below) by the United States Environmental Protection Agency (the "EPA"), or included on the Comprehensive Environmental Response, Compensation, and Liability Information System database maintained by the EPA, and none of the Operating Partnership, the Company or the Subsidiaries has actual knowledge that any Property has otherwise been identified in a published writing by the EPA as a potential CERCLA removal, remedial or response site or, to the knowledge of the Company and its Subsidiaries, is included on any similar list of potentially contaminated sites pursuant to any other Environmental Law.

As used herein, "Hazardous Substance" shall include any hazardous substance, hazardous waste, toxic substance, pollutant or hazardous material, including, without limitation, oil, petroleum or any petroleum-derived substance or waste, asbestos or asbestos-containing materials, PCB's, pesticides, explosives, radioactive materials, dioxins, urea formaldehyde insulation or any constituent of any such substance, pollutant or waste which is subject to regulation under any Environmental Law (including, without limitation, materials listed in the United States Department of Transportation Optional Hazardous Material Table, 49 C.F.R. ss. 172.101, or in the EPA's List of Hazardous Substances and Reportable Quantities, 40 C.F.R. Part 302); "Environment" shall mean any surface water, drinking water, ground water, land surface, subsurface strata, river sediment, buildings, structures, and ambient, workplace and indoor and outdoor air; "Environmental Law" shall mean the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (42 U.S.C. ss. 9601 et seq.) ("CERCLA"), the Resource Conservation and Recovery Act of 1976, as amended (42 U.S.C. ss. 6901, et seq.), the Clean Air Act, as amended (42 U.S.C. ss. 7401, et seq.), the Clean Water Act, as amended (33 U.S.C. ss. 1251, et seq.), the Toxic Substances Control Act, as amended (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 Hazardous Materials Transportation Act, as amended (49 U.S.C. ss. 1801, et seq.), and all other federal, state and local laws, ordinances, regulations, rules and orders relating to the protection of the environment or of human health from environmental effects; "Governmental Authority" shall mean any federal, state or local governmental office, agency or authority having the duty or authority to promulgate, implement or enforce any Environmental Law; "Lien" shall mean, with respect to any Property, any mortgage, deed of trust, pledge, security interest, lien, encumbrance, penalty, fine, charge, assessment, judgment or other liability in, on or affecting such Property; and "Release" shall mean any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, emanating or disposing of any Hazardous Substance into the Environment, including, without limitation, the abandonment or discard of barrels, containers, tanks (including, without limitation, underground storage tanks) or other receptacles containing or previously containing and containing a residue of any Hazardous Substance.

None of the environmental consultants which prepared environmental and asbestos inspection reports with respect to any of the Properties was employed for such purpose on a

contingent basis or has any substantial interest in the Operating Partnership, the Company or any of the Subsidiaries, and none of them nor any of their directors, officers or employees is connected with the Operating Partnership, the Company or any of the Subsidiaries as a promoter, selling agent, voting trustee, director, officer or employee.

(v) The Depositary Shares and depositary shares representing Series F Preferred Shares will have an investment grade rating from one or more nationally recognized statistical rating organization(s).

(w) To the knowledge of the Company or the Operating Partnership, after due inquiry, except as set forth in any applicable registration statement or prospectus, there are no actions, suits, proceedings, investigations or inquiries, pending or, after due inquiry, threatened against or affecting the Operating Partnership or the Company or any of their Subsidiaries or any of their respective officers or directors in their capacity as such or of which any of their respective properties or assets is the subject or bound, before or by any Federal or state court, commission, regulatory body, administrative agency or other governmental body, domestic or foreign, wherein an unfavorable ruling, decision or finding would reasonably be expected to have a Material Adverse Effect.

(x) The Company and the Operating Partnership are organized and operate in a manner so that the Company qualifies as a real estate investment trust ("REIT") under Sections 856 through 860 of the Internal Revenue Code of 1986, as amended (the "Code"), and the Company has elected to be taxed as a REIT under the Code commencing with the taxable year ended December 31, 1994. The Company and the Operating Partnership intend to continue to be organized and operate so that the Company shall qualify as a REIT for the foreseeable future, unless the Company's board of trustees determines that it is no longer in the best interests of the Company to be so qualified.

(y) Each of the Operating Partnership and the Company has filed all federal, state, local and foreign income tax returns which have been required to be filed (except in any case in which the failure to so file would not result in a Material Adverse Effect) and has paid all taxes required to be paid and any other assessment, fine or penalty levied against it, to the extent that any of the foregoing would otherwise be delinquent, except, in all cases, for any such tax, assessment, fine or penalty that is being contested in good faith and except in any case in which the failure to so pay would not result in a Material Adverse Effect.

Section 3. Fees and Expenses. (a) For the performance of its services as Remarketing Agent in connection with Remarketings hereunder, the Company agrees to pay to the Remarketing Agent a fee on each Remarketing Settlement Date, in an amount customary for the types of services provided by the Remarketing Agent hereunder and as shall be mutually agreed upon between the Company and the Remarketing Agent.

(b) The Company agrees to pay (i) the costs incident to the preparation and filing of any registration statements and any amendments thereto required in connection with this Agreement; (ii) the costs incident to the preparation, printing, and distribution of any prospectus (preliminary or final) and any supplements thereto required in connection with this Agreement; (iii) the fees and expenses of qualifying Remarketed Securities under the securities laws of the several jurisdictions as provided in Section 4(g) and of preparing, printing, and distributing a blue sky survey (including related fees and expenses of counsel to the Remarketing Agent); (iv) all other costs and expenses incident to the performance of the obligations of the Company and the

Operating Partnership hereunder; and (v) the fees and expenses of counsel and accountants for the Company.

Section 4. Further Agreements of the Company. The Company agrees:

(a) To prepare any registration statement, preliminary prospectus or final prospectus, and any amendments and supplements thereto required in connection with any Remarketing, in a form reasonably acceptable to the Remarketing Agent and to file any such documents with the Commission pursuant to the Securities Act as required by the Securities Act.

(b) To advise the Remarketing Agent, promptly after it receives notice thereof, of the time when any registration statement or any amendment thereto has been filed with the Commission or becomes effective, and when any prospectus (preliminary or final) or any supplement thereto has been filed, in each such case excluding documents incorporated by reference therein; during the term of this Agreement and the Series F Remarketing Agreement, to file promptly all reports and any definitive proxy or information statements required to be filed by the Company and the Operating Partnership with the Commission pursuant to Section 13(a), 13(c), 14 or 15(d) of the Exchange Act; to advise the Remarketing Agent, promptly after it receives notice thereof, of the issuance by the Commission of any stop order with respect to any registration statement or amendment thereof filed in connection with this Agreement or the Series F Remarketing Agreement, or of any order preventing or suspending the use of any prospectus (preliminary or final) or any supplement thereto filed or prepared in connection with this Agreement or the Series F Remarketing Agreement, of the suspension of the qualification of any Remarketed Securities or Series F Preferred Shares for offering or sale in any jurisdiction, of the initiation or threatening of any proceeding for any such purpose, or of any request by the Commission for the amending or supplementing of any such registration statement or prospectus or amendment or supplement thereto or for additional information; and, in the event of the issuance of any stop order with respect to any registration statement or any amendment thereto or of any order preventing or suspending the use of any prospectus or supplement thereto or suspending any such qualification, to use promptly its best efforts to obtain its withdrawal.

(c) To furnish to the Remarketing Agent (i) conformed copies of any registration statement prepared in connection with this Agreement as originally filed with the Commission and each amendment thereto (in each case excluding exhibits), any preliminary or final prospectus prepared in connection with this Agreement and any supplements thereto; copies of the Series F Articles Supplementary, the Series G Articles Supplementary and the Calculation Agent Agreements, and any amendment to any thereof, and each report or other document mailed or made available to holders of Remarketed Securities; (ii) if the delivery of a prospectus is required at any time in connection with a Remarketing and if at such time any event has occurred as a result of which the prospectus as then supplemented would include any untrue statement of a material fact or omit to state any material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made when such prospectus is delivered, not misleading, or if for any other reason in the opinion of counsel to the Company or the Remarketing Agent it shall be necessary during such same period to amend or supplement the applicable registration statement or prospectus or to file under the Exchange Act any document incorporated by reference in the prospectus in order to comply with the Securities Act or the Exchange Act, to notify the Remarketing Agent and to file such document and to prepare and furnish without charge to the Remarketing Agent and to any dealer in Depositary Shares as many copies as the Remarketing Agent may from time to time reasonably request of an amended or supplemented prospectus which will correct such statement or omission or effect such

compliance; and (iii) such other information as the Remarketing Agent may reasonably request from time to time, in such form as the Remarketing Agent may reasonably request.

(d) To furnish to the Remarketing Agent, without charge, as many copies of any registration statement, preliminary prospectus or final prospectus prepared in connection with this Agreement, and any amendments and supplements thereto as the Remarketing Agent may reasonably request.

(e) Prior to making any amendment to any registration statement or supplement to any preliminary or final prospectus filed or prepared in connection with this Agreement and the Series F Remarketing Agreement, to furnish a copy thereof to the Remarketing Agent and counsel to the Remarketing Agent, and not effect any such amendment or supplement thereto to which the Remarketing Agent shall reasonably object by notice to the Company after a reasonable period to review.

(f) If, at any time on or after the commencement of a Remarketing and prior to the related Remarketing Settlement Date, any event shall occur or condition exist as a result of which it is necessary, in the opinion of counsel for the Remarketing Agent or counsel for the Company, to amend or supplement any preliminary or final prospectus in order that such preliminary or final prospectus will not include an untrue statement of a material fact or omit to state a material fact necessary in order to make the statements therein not misleading in light of the circumstances existing at the time it is delivered in connection with the Remarketing, or if it is necessary to amend any registration statement or supplement any preliminary or final prospectus to comply with applicable law, to promptly prepare such amendment or supplement as may be necessary to correct such untrue statement or omission or so that such document, as so amended or supplemented, will comply with applicable law and to furnish you such number of copies as the Remarketing Agent may reasonably request.

(g) Promptly from time to time to take such action as the Remarketing Agent may reasonably request to qualify the Remarketed Securities for offering and sale under the securities or "blue sky" laws of such jurisdictions as the Remarketing Agent may request and to comply with such laws so as to permit the continuance of sales and dealings therein in such jurisdictions for as long as may be necessary to complete the distribution of the Remarketed Securities; provided, that in connection therewith, the Company shall not be required to qualify as a foreign corporation or to file a general consent to service of process in any jurisdiction in which it is not so qualified or to submit to any requirements which it deems unduly burdensome.

(h) The Company will make generally available to its security holders as soon as reasonably practicable, but not later than 90 days after the close of the period covered thereby, an earnings statement of the Company (in form complying with the provisions of Rule 158 of the rules and regulations under the Securities Act) covering a twelve-month period beginning not later than the first day of the Company's fiscal quarter next following the "effective date" (as defined in Rule 158) of any registration statement filed in connection with this Agreement.

(i) During the period when a prospectus is required to be delivered under the Securities Act or the Exchange Act in connection with sale of Remarketed Securities, to file all documents required to be filed by it with the Commission pursuant to Section 13, 14 or 15 of the Exchange Act within the time periods required by the Exchange Act.

(j) The Company will use its best efforts to continue to qualify as a REIT under Sections 856 through 860 of the Code unless the Company's board of trustees determines that it is no longer in the best interests of the Company to be so qualified.

(k) The Company will use its reasonable best efforts to take all reasonable action necessary to enable Standard & Poor's Corporation ("S&P") and Moody's Investors Services, Inc. ("Moody's") or any other nationally recognized rating organization to provide their respective credit ratings.

Section 5. Conditions to the Remarketing Agent's Obligations. The obligations of the Remarketing Agent hereunder are subject to the accuracy, on and as of the date when made, of the representations and warranties of the Company and the Operating Partnership contained herein, to the performance by the Company and the Operating Partnership of their respective obligations hereunder, and to each of the following additional terms and conditions:

(a) The Remarketing Agent shall not have discovered and disclosed to the Company on or prior to the Remarketing Date, or during the period between the Remarketing Date and the Remarketing Settlement Date, that any applicable registration statement, preliminary prospectus or final prospectus or any amendment or supplement thereto contains any untrue statement of a fact which, in the opinion of Clifford Chance US LLP, or such other counsel for the Remarketing Agent, is material or omits to state any fact which, in the opinion of such counsel, is material and is required to be stated therein, or is necessary to make the statements therein not misleading.

(b) All corporate proceedings and other legal matters incident to the authorization, form and validity of this Agreement, the Series F Remarketing Agreement, the Series F Articles Supplementary, the Series G Articles Supplementary, the Deposit Agreements, the Preferred Shares, the Depositary Shares, any applicable registration statement, preliminary prospectus and/or final prospectus and any amendments or supplements thereto and all other legal matters relating to this Agreement and the transactions contemplated hereby shall be reasonably satisfactory in all respects to counsel for the Remarketing Agent, and the Company and the Operating Partnership shall have furnished to such counsel all documents and information that they may reasonably request to enable them to pass upon such matters.

(c) On any Remarketing Settlement Date, Cahill Gordon & Reindel LLP, or such other counsel satisfactory to the Remarketing Agent, shall have furnished to the Remarketing Agent their written opinion, as counsel to the Company and the Operating Partnership, addressed to the Remarketing Agent and dated such date, in form and substance to the effect set forth in Exhibit A hereto, and to the extent not to such effect, in form and substance reasonably acceptable to the Remarketing Agent.

(d) On any Remarketing Settlement Date, Barack Ferrazzano Kirschbaum, Perlman & Nagelberg, or such other counsel satisfactory to the Remarketing Agent, shall have furnished to the Remarketing Agent their written opinion, addressed to the Remarketing Agent and dated such date, in form and substance reasonably satisfactory to the Remarketing Agent, to the effect set forth in Exhibit B hereto and to such further effect as counsel to the Remarketing Agent may reasonably request.

(e) On any Remarketing Settlement Date, McGuire Woods L.L.P., or such other counsel satisfactory to the Remarketing Agent, shall have furnished to the Remarketing Agent their written opinion, on certain matters of Maryland law relating to the validity of the Preferred

Shares, addressed to the Remarketing Agent and dated such date, in form and substance reasonably satisfactory to the Remarketing Agent, to the effect set forth in Exhibit C hereto and to such further effect as counsel to the Remarketing Agent may reasonably request.

(f) On any Remarketing Settlement Date, Clifford Chance US LLP, or such other counsel satisfactory to the Remarketing Agent, shall have furnished to the Remarketing Agent their written opinion, addressed to the Remarketing Agent and dated such date, in form and substance reasonably satisfactory to the Remarketing Agent, to the effect set forth in Exhibit D hereto.

(g) On any Remarketing Settlement Date, PricewaterhouseCoopers, LLP, or such other firm of independent public accountants performing services for the Company, shall have furnished to the Remarketing Agent a "comfort letter" of such accountants, addressed to the Remarketing Agent and dated such date, in form and substance reasonably satisfactory to the Remarketing Agent.

(h) At the commencement date with respect to marketing efforts to investors in connection with any Remarketing (a "Commencement Date") and on the related Remarketing Date and Remarketing Settlement Date, there shall not have been, since the respective dates as of which information is given in any applicable registration statement or preliminary or final prospectus (or any amendment or supplement thereto), any material adverse change in the condition, financial or otherwise, or in the earnings or business affairs of the Company or the Operating Partnership and the Company's Subsidiaries considered as one enterprise, whether or not arising in the ordinary course of business, and the Remarketing Agent shall have received certificates of a Vice President of the Company and of the chief financial or chief accounting officer of the Company on behalf of the Company itself and as general partner of the Operating Partnership, and dated as of each such date, to the effect that (i) there has been no such material adverse change, (ii) the representations and warranties in Section 2 hereof are true and correct with the same force and effect as though expressly made at and as of the Remarketing Settlement Date and (iii) the Company and the Operating Partnership have complied in all material respects with all agreements and satisfied all conditions on their part to be performed or satisfied at or prior to such date.

(i) Subsequent to the execution and delivery of this Agreement and prior to any Remarketing Settlement Date, there shall not have occurred any downgrading, nor shall any notice have been given of (i) any intended or potential downgrading or (ii) any review or possible change that does not indicate an improvement in the rating accorded to the Preferred Shares by any "nationally recognized statistical rating organization," as such term is defined for purposes of Rule 436(g)(2) under the Securities Act.

(j) On any Remarketing Settlement Date, the Preferred Shares shall have the same ratings accorded by any "nationally recognized statistical organization," as defined by the Commission for purposes of Rule 436(g)(2) under the Securities Act, as when they were first issued, and the Company shall have delivered to the Remarketing Agent a letter, dated as of such date, from each such rating organization, or other evidence satisfactory to the Remarketing Agent, confirming that the Preferred Shares have such ratings. Since the date hereof, there shall not have occurred a downgrading in the rating assigned to the Preferred Shares or any of the Company's securities or the Operating Partnership's other securities by any such rating organization, and no such rating organization shall have publicly announced that it has under surveillance or review, with possible negative implications, its rating of the Preferred Shares or any of the Company's securities or the Operating Partnership's other securities.

(k) Without the prior written consent of the Remarketing Agent, the Series F Articles Supplementary and the Series G Articles Supplementary shall not have been amended in any manner, or otherwise contain any provision not contained therein as of the date hereof that, in the opinion of the Remarketing Agent, materially changes the nature of the Remarketed Securities or the Remarketing Procedures.

(l) Subsequent to the Commencement Date of any Remarketing, there shall not have occurred any of the following: (i) trading of any securities of or guaranteed by the Company and the Operating Partnership shall have been suspended on any exchange or in any over-the-counter market, (ii) trading in securities on the New York Stock Exchange, the American Stock Exchange, the National Association of Securities Dealers, Inc., the Chicago Board Options Exchange, the Chicago Mercantile Exchange or the Chicago Board of Trade shall have been generally suspended, or there shall have been a material disruption in settlement of securities generally, (iii) minimum or maximum ranges for prices shall have been generally established on the New York Stock Exchange by the Commission or by the New York Stock Exchange, (iiv) a general banking moratorium shall have been declared by federal or New York State authorities, (v) any major disruption of settlements of securities or clearance services in the United States; or (vi) there shall have occurred any outbreak or escalation of major hostilities in which the United States is involved, any declaration of war by the United States Congress or any other substantial national or international calamity, crisis or emergency (including without limitation, acts of terrorism) affecting the United States, in any such case provided for in clauses (i) through (vi) with the result that, in the reasonable judgment of the Remarketing Agent, the marketability of the Remarketed Securities shall have been materially impaired.

All opinions, letters, evidence, and certificates mentioned above or elsewhere in this Agreement shall be deemed to be in compliance with the provisions hereof only if they are in form and substance reasonably satisfactory to counsel for the Remarketing Agent.

Section 6. Indemnification. (a) The Company and the Operating Partnership jointly and severally agree to indemnify and hold harmless the Remarketing Agent, each of its directors, officers and employees and each person, if any, who controls the Remarketing Agent within the meaning of Section 15 of the Securities Act or Section 20(a) of the Exchange Act, against any and all losses, claims, damages or liabilities, joint or several, to which they or any of them may become subject under the Securities Act, Exchange Act or otherwise, and to reimburse the Remarketing Agent and such other persons, if any, for any legal or other expenses incurred by them in connection with defending any actions, insofar as such losses, claims, damages, liabilities or actions arise out of or are based upon any untrue statement or alleged untrue statement of a material fact contained in any registration statement, preliminary prospectus or final prospectus or in any amendments or supplements thereto, or in any filings pursuant to Section 13 or 14 of the Exchange Act which are incorporated by reference in any registration statement, preliminary prospectus or final prospectus as so amended or supplemented, or arise out of or are based upon any omission or alleged omission to state therein a material fact required to be stated therein or necessary to make the statements therein not misleading, except insofar as such losses, claims, damages, liabilities or actions arise out of or are based upon any such untrue statement or alleged untrue statement or omission or alleged omission which was made in such registration statement, preliminary prospectus or final prospectus in reliance upon and in conformity with information furnished in writing to the Company expressly for use therein and except that this indemnity with respect to any preliminary prospectus or final prospectus, if the Company and the Operating Partnership shall have furnished any amendment or supplement thereto, shall not inure to the benefit of the Remarketing Agent (or of any person controlling the Remarketing Agent) on account of any losses, claims, damages, liabilities or actions arising from the sale of the

Remarketed Securities to any person if a copy of the preliminary prospectus or the final prospectus (exclusive of documents incorporated therein by reference pursuant to Item 12 of Form S-3), as the same may then be amended or supplemented, shall not have been sent or given by or on behalf of the Remarketing Agent to such person with or prior to the written confirmation of the sale involved and the untrue statement or alleged untrue statement or omission or alleged omission was corrected in the final prospectus as supplemented or amended at the time of such confirmation; provided, that the foregoing indemnity with respect to any preliminary prospectus shall not inure to the benefit of the Remarketing Agent (or to the benefit of the person controlling such Remarketing Agent) from whom the person asserting any such losses, claims, damages or liabilities purchased Remarketed Securities if such untrue statement or omission or alleged untrue statement or omission made in such preliminary prospectus or preliminary prospectus supplement that was the cause of such losses, claims, damages or liabilities, is eliminated or remedied in the Prospectus (as amended or supplemented if the Company or the Operating Partnership shall have furnished any amendments or supplements thereto) and, if required by law, a copy of the Prospectus (as so amended or supplemented) shall not have been furnished to such person at or prior to the written confirmation of the sale of such Remarketed Securities to such person, provided further that the Company and the Operating Partnership shall have complied with their obligations under Section 4 hereof with respect to the Prospectus (as so amended or supplemented). The Remarketing Agent agrees, within ten days after the receipt by it of notice of the commencement of any action in respect of which indemnity may be sought by it, or by any other person entitled to indemnification hereunder, from the Company and the Operating Partnership on account of its agreement contained in this Section 6, to notify the Company and the Operating Partnership in writing of the commencement thereof, but the omission of the Remarketing Agent so to notify the Company and the Operating Partnership of any such action shall not release the Company and the Operating Partnership from any liability which it may have to the Remarketing Agent or to such controlling person otherwise than on account of the indemnity agreement contained in this Section 6. In case any such action shall be brought against the Remarketing Agent or any such other person entitled to indemnification hereunder, the Remarketing Agent shall notify the Company and the Operating Partnership of the commencement thereof as above provided, the Company and the Operating Partnership shall be entitled to participate in (and, to the extent that they shall wish, including the selection of counsel, to direct) the defense thereof, at their own expense. In case the Company and the Operating Partnership elect to direct such defense and select such counsel, the Remarketing Agent or any such other indemnified person shall have the right to employ its own counsel, but, in any such case, the fees and expenses of such counsel shall be at the expense of the Remarketing Agent or such other person unless the employment of such counsel has been authorized in writing by the Company and the Operating Partnership in connection with defending such action. No indemnifying party shall, without the written consent of the indemnified party, effect the settlement or compromise of, or consent to the entry of any judgment with respect to, any pending or threatened action or claim in respect of which indemnification may be sought hereunder (whether or not the indemnified party is an actual or potential party to such action or claim) unless such settlement, compromise or judgment (i) includes an unconditional release of the indemnified party from all liability arising out of such action or claim and (ii) does not include any statement as to, or an admission of, fault, culpability or a failure to act, by or on behalf of any indemnified party. In no event shall any indemnifying party have any liability or responsibility in respect of the settlement or compromise of, or consent to the entry of any judgment with respect to, any pending or threatened action or claim effected without its prior written consent.

(b) The Remarketing Agent agrees to indemnify and hold harmless the Company, its directors and such of its officers who have signed any registration statement filed pursuant to this Agreement, and each person, if any, who controls the Company or the Operating Partnership

within the meaning of Section 15 of the Securities Act or Section 20(a) of the Exchange Act to the same extent and upon the same terms as the indemnity agreement of the Company or the Operating Partnership set forth in Section 6(a) hereof, but only with respect to alleged untrue statements or omissions made in any registration statement, preliminary prospectus, or final prospectus, or such documents as amended or supplemented, in reliance upon and in conformity with information furnished in writing to the Company and the Operating Partnership by, or through, the Remarketing Agent expressly for use therein.

Section 7. Resignation and Removal of Remarketing Agent. The Remarketing Agent may resign and be discharged from its duties and obligations hereunder, and the Company may remove the Remarketing Agent, by giving 30 days' prior written notice, in the case of a resignation, to the Company and the Depositary Participant, and, in the case of a removal, such removed Remarketing Agent and the Depositary Participant; provided, however, that (i) the Company may not remove the Remarketing Agent unless (A) the Remarketing Agent becomes involved as debtor in a bankruptcy, insolvency or similar proceeding, (B) the Remarketing Agent shall not be among the five underwriters with the largest volume underwritten in dollars, on a lead or co-managed basis, of U.S. domestic preferred securities during the twelve-month period ended as of the last calendar quarter preceding the Scheduled Remarketing Date, (C) the Remarketing Agent shall be subject to any restriction preventing the performance of its obligations hereunder or (D) the distribution rates provided by the Remarketing Agent in connection with remarketings of securities by it in the twelve month period ended as of the end of the last calendar quarter preceding a Remarketing Date shall not be among the lowest remarketing distribution rates provided by the top three underwriters during such 12 month period and (ii) no such resignation nor any such removal shall become effective until the Company shall have appointed at least one nationally recognized broker-dealer as successor Remarketing Agent and such successor Remarketing Agent shall have entered into a remarketing agreement with the Company in which it shall have agreed to conduct the Remarketing in accordance with the Remarketing Procedures. In such case, the Company will use its best efforts to appoint a successor Remarketing Agent and enter into such a remarketing agreement with such person as soon as reasonably practicable. The provisions of Sections 3 and 6 shall survive the resignation or removal of the Remarketing Agent pursuant to this Agreement.

Section 8. Dealing in the Remarketed Securities. The Remarketing Agent, when acting as a Remarketing Agent or in its individual or any other capacity, may, to the extent permitted by law, buy, sell, hold and deal in any Remarketed Securities. Notwithstanding the foregoing, the Remarketing Agent is not obligated to purchase any Remarketed Securities that would otherwise remain unsold in a Remarketing. The Remarketing Agent may exercise any vote or join in any action which any beneficial owner of Remarketed Securities may be entitled to exercise or take pursuant to the Series F Articles Supplementary and the Series G Articles Supplementary with like effect as if it did not act in any capacity hereunder. The Remarketing Agent, in its individual capacity, either as principal or agent, may also engage in or have an interest in any financial or other transaction with the Company as freely as if it did not act in any capacity hereunder.

Section 9. Remarketing Agent's Performance; Duty of Care. The duties and obligations of the Remarketing Agent shall be determined solely by the express provisions of this Agreement, the Series F Remarketing Agreement, the Series F Articles Supplementary and the Series G Articles Supplementary. No implied covenants or obligations of or against the Remarketing Agent shall be read into this Agreement, the Series F Remarketing Agreement, the Series F Articles Supplementary or the Series G Articles Supplementary. In the absence of bad faith on the part of the Remarketing Agent, the Remarketing Agent may conclusively rely upon any document furnished to it, which purports to conform to the requirements of this Agreement, the Series F

Remarketing Agreement, the Series F Articles Supplementary or the Series G Articles Supplementary as to the truth of the statements expressed in any of such documents. The Remarketing Agent shall be protected in acting upon any document or communication reasonably believed by it to have been signed, presented or made by the proper party or parties. The Remarketing Agent, acting under this Agreement, shall incur no liability to the Company or to any holder of Remarketed Securities in its individual capacity or as Remarketing Agent for any action or failure to act, on its part in connection with a Remarketing or otherwise, except if such liability is judicially determined to have resulted from gross negligence or willful misconduct on its part.

Section 10. Termination. This Agreement shall terminate as to the Remarketing Agent on the effective date of the resignation or removal of the Remarketing Agent pursuant to Section 7.

In addition, the obligations of the Remarketing Agent hereunder with respect to a specific Remarketing may be terminated by it by notice given to the Company prior to 10:00 A.M., New York City time, on the applicable Remarketing Date if, prior to that time, any of the events described in Sections 5(h), (i), (j), (k) or (l) herein shall have occurred or if the Remarketing Agent shall decline to perform its obligations under this Agreement for any reason permitted hereunder.

The Company and the Operating Partnership may elect to terminate a specific Remarketing at any time prior to an Election Date with respect to such Remarketing.

Section 11. Notices. All statements, requests, notices and agreements hereunder shall be in writing, and:

(a) if to the Remarketing Agent, shall be delivered or sent by mail, telex or facsimile transmission to Lehman Brothers Inc., 745 7th Avenue, New York, New York 10019, Attention: Syndicate Department (Fax: (646) 758-2018);

(b) if to the Company or the Operating Partnership shall be delivered or sent by mail, telex or facsimile transmission to the address of the Company set forth in the prospectus or any supplement thereto, Attention: John H. Clayton, Esq. (Fax: (312) 922-9851).

Any such statements, requests, notices or agreements shall take effect at the time of receipt thereof.

Section 12. Persons Entitled to Benefit of Agreement. This Agreement shall inure to the benefit of and be binding upon the Remarketing Agent, the Company and their respective successors. This Agreement and the terms and provisions hereof are for the sole benefit of only those persons, except that (x) the representations, warranties, indemnities and agreements of the Company contained in this Agreement shall also be deemed to be for the benefit of the directors, officers and employees of the Remarketing Agent and the person or persons, if any, who control the Remarketing Agent within the meaning of Section 15 of the Securities Act and (y) the representations, warranties, indemnities and agreements of the Remarketing Agent contained in this Agreement shall be deemed to be for the benefit of directors, officers and employees of the Company and any person controlling the Company or the Operating Partnership within the meaning of Section 15 of the Securities Act. Nothing in this Agreement is intended or shall be construed to give any person, other than the persons referred to in this Section 12, any legal or

equitable right, remedy or claim under or in respect of this Agreement or any provision contained herein.

Section 13. Survival. The respective indemnities, representations, warranties and agreements of the Company, the Operating Partnership and the Remarketing Agent contained in this Agreement or made by or on behalf of them, respectively, pursuant to this Agreement shall survive the Remarketing and shall remain in full force and effect, regardless of any investigation made by or on behalf of any of them or any person controlling any of them.

Section 14. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of New York.

Section 15. Counterparts. This Agreement may be executed in one or more counterparts and, if executed in more than one counterpart, the executed counterparts shall each be deemed to be an original but all such counterparts shall together constitute one and the same instrument.

Section 16. Headings. The headings herein are inserted for convenience of reference only and are not intended to be part of, or to affect the meaning or interpretation of, this Agreement.

If the foregoing correctly sets forth the agreement between the Company and the Remarketing Agent, please indicate your acceptance in the space provided for that purpose below.

Very truly yours,

FIRST INDUSTRIAL REALTY TRUST, INC.

By: /s/ M. Havala

Name: Michael J. Havala
Title: Chief Financial Officer

FIRST INDUSTRIAL, L.P.

By: First Industrial Realty Trust, Inc.
as its sole general partner

By: /s/ M. Havala

Name: Michael J. Havala
Title: Chief Financial Officer

Accepted:

LEHMAN BROTHERS INC.

By: /s/ E.M. Callan

Name: E.M. Callan
Title: Managing Director

FORM OF OPINION OF
COMPANY AND OPERATING PARTNERSHIP COUNSEL TO BE DELIVERED
PURSUANT TO SECTION 5(c)

1. The Company is duly qualified or registered as a foreign corporation to transact business and is in good standing in each jurisdiction identified where such qualification is required, and each Corporate Subsidiary is duly qualified or registered as a foreign corporation to transact business and is in good standing in each jurisdiction where such qualification is required, in each case except where the failure to obtain such qualification or registration will not have a Material Adverse Effect.

2. The Operating Partnership has been duly formed and is validly existing as a limited partnership in good standing under the laws of its state of organization. The Operating Partnership has all requisite partnership power and authority to own, lease and operate its properties and other assets and to conduct the business in which it is engaged and proposes to engage, in each case, as described in any applicable prospectus, and the Operating Partnership has the partnership power to enter into and perform its obligations under this Agreement, the Series F Remarketing Agreement and the Underwriting Agreement. The Operating Partnership is duly qualified or registered as a foreign partnership and is in good standing in each jurisdiction where such qualification is required, in each case except where the failure to obtain such qualification or registration will not have a Material Adverse Effect.

3. To the knowledge of such counsel, other than shares reserved for issuance pursuant to the Company's Shareholder Rights Plan, no shares of preferred stock of the Company are reserved for any purpose. To the knowledge of such counsel, there are no outstanding securities convertible into or exchangeable for any preferred stock of the Company and no outstanding options other than as provided in this Agreement, rights (preemptive or otherwise) or warrants to purchase or to subscribe for Depositary Shares of preferred stock of the Company. To the knowledge of such counsel, all of the outstanding partnership interests of the Operating Partnership has been duly authorized, validly issued and fully paid and, except for units not owned by the Company, are owned directly or indirectly by the Company or the Operating Partnership.

4. To the knowledge of such counsel, none of the Company or the Operating Partnership is in violation of or default under its charter, bylaws, certificate of limited partnership or partnership agreement, as the case may be, and none of such entities is in default in the performance or observance of any obligation, agreement, covenant or condition contained in any document (as in effect on the date of such opinion) listed as an exhibit to any applicable registration statement, each of the Company's and the Operating Partnership's Annual Report on Form 10-K for the year most recently ended or Quarterly Report on Form 10-Q for the quarter most recently ended, in each case as amended, if applicable, to which such entity is a party or by which such entity may be bound, or to which any of the property or assets of such entity or any Property is subject to or bound by (it being understood that (i) such counsel need express no opinion with respect to matters relating to any contract, indenture, mortgage, loan agreement, note lease, joint venture or partnership agreement or other instrument or agreement relating to the acquisition, transfer, operation, maintenance, management or financing of any property or assets of such entity or any other Property and (ii) such counsel may assume compliance with the financial covenants contained in any such

document), except in each case for violations or defaults which in the aggregate are not reasonably expected to have a Material Adverse Effect.

5. This Agreement, the Series F Remarketing Agreement and the Underwriting Agreement were duly and validly authorized, executed and delivered by each of the Company and the Operating Partnership and the Deposit Agreements and the Calculation Agent Agreements were duly and validly authorized executed and delivered by the Company.

6. Any applicable registration statement has been declared effective under the Securities Act, any applicable prospectus was filed with the Commission pursuant to Rule 424 of the Securities Act ("Rule 424"), within the applicable time period prescribed by Rule 424, and, to the knowledge of such counsel, no stop order suspending the effectiveness of any applicable registration statement or any applicable prospectus has been issued and no proceeding for that purpose is pending or threatened by the Commission.

7. The execution and delivery of this Agreement, the Series F Remarketing Agreement, the Series F Articles Supplementary, the Series G Articles Supplementary, the Deposit Agreements and the Calculation Agent Agreements and the issuance and sale of the Depositary Shares and the performance by the Company and the Operating Partnership of their respective obligations under the Depositary Shares, this Agreement, the Series F Remarketing Agreement, the Deposit Agreements and the Calculation Agent Agreements, to the extent they are a party thereto, did not and do not conflict with or constitute a breach or violation of or default under: (1) any document (as in effect as of the date of such opinion) listed as an exhibit to any applicable registration statement, each of the Company's Annual Report on Form 10-K for the year most recently ended or Quarterly Report on Form 10-Q for the quarter most recently ended, in each case as amended, if applicable, to which any such entity is a party or by which it or any of them or any of their respective properties or other assets may be bound or subject and of which such counsel is aware (it being understood that (i) such counsel need express no opinion with respect to matters relating to any contract, indenture, mortgage, loan agreement, note lease, joint venture or partnership agreement or other instrument or agreement relating to the acquisition, transfer, operation, maintenance, management or financing of any property or assets of such entity or any other Property and (ii) such counsel may assume compliance with the financial covenants contained in any such document); (2) the certificate of limited partnership or partnership agreement, as the case may be, of the Operating Partnership and the Financing Partnership or the articles of incorporation or bylaws, as the case may be, of the Company, FIFC or FISC; or (3) any applicable law, rule or administrative regulation, except in each case for conflicts, breaches, violations or defaults that in the aggregate are not reasonably expected to have a Material Adverse Effect.

8. To the knowledge of such counsel, no Material authorization, approval, consent or order of any court or governmental authority or agency or any other entity is required in connection with the remarketing of the Depositary Shares hereunder, except such as may be required under the Securities Act, the bylaws, corporate financing rule and conflict of interest rule of the NASD, or state securities, "blue sky" or real estate syndication laws, or such as have been received prior to the date of such opinion.

9. Any applicable registration statement, at the time it became effective and any applicable prospectus, as of the date hereof, in each case, other than the financial statements, including the notes and schedules thereto, or any other financial statistical data that is found in or derived from the internal accounting records of the Company, the Operating Partnership or their respective Subsidiaries set forth in or incorporated by reference therein, as to which

no opinion need be rendered, complied as to form in all material respects with the requirements of the Securities Act and the Exchange Act.

10. The purchasers of the Remarketed Securities are receiving good, valid and marketable title to the Depositary Shares, free and clear of all security interests, mortgages, pledges, liens, encumbrances, claims and equities if such purchasers acquire such Depositary Shares in good faith and without notice of any such security interests, mortgages, pledges, liens, encumbrances, claims or equities.

11. The information in any applicable prospectus under "Description of the Preferred Shares," "Certain United States Federal Income Tax Consequences," "Risk Factors," "Description of Preferred Stock," "Description of Depositary Shares," "Restrictions on Transfers of Capital Stock," and "Federal Income Tax Considerations" (as modified by the information in the Prospectus Supplement), to the extent that it constitutes statements of law, descriptions of statutes, rules or regulations, or summaries of documents or legal conclusions, has been reviewed by us and is correct in all material respects and presents fairly the information required to be disclosed therein.

12. To such counsel's knowledge, there is no document or contract of a character required to be described or referred to in any applicable Registration Statement and any applicable prospectus or to be filed as exhibits thereto by the Securities Act other than those described or referred to therein or filed as exhibits thereto, and the descriptions thereof or references thereto are accurate in all material respects.

13. The partnership agreement of each of the Operating Partnership, Securities, L.P. and the Financing Partnership has been duly authorized, validly executed and delivered by the Company, and is valid, legally binding and enforceable in accordance with its terms, subject to bankruptcy, insolvency, fraudulent transfer, reorganization, moratorium and similar laws of general applicability relating to or affecting creditors' rights and of general principles of equity (regardless of whether such enforceability is considered in a proceeding in equity or at law).

14. The Company and the Operating Partnership satisfy all conditions and requirements for filing any applicable registration statement on Form S-3 under the Securities Act.

15. The Company is not required to be registered as an investment company under the Investment Company Act of 1940, as amended.

16. We are of the opinion that, commencing with the Company's taxable year ended December 31, 1994, the Company has been organized and operated in conformity with the requirements for qualification and taxation as a REIT under the Code and the Company's current and proposed method of operation (as represented by the Company to us in a written certificate) will enable it to continue to meet the requirements for qualification and taxation as a REIT under the Code.

In addition, we have participated in conferences with officers and other representatives of the Company and the Operating Partnership, representatives of the independent public accountants for the Company and the Operating Partnership and representatives of the Remarketing Agent at which the contents of any applicable registration statement and any applicable prospectus and related matters were discussed. On the basis thereof, but without independent verification by such counsel of, and without passing upon or assuming any

responsibility for, the accuracy, completeness or fairness of the statements contained in any applicable registration statement or any applicable prospectus or any amendments or supplements thereto, no facts have come to the attention of such counsel that lead them to believe that (i) any applicable registration statement, including the documents incorporated therein by reference, at the time such Registration Statement became effective, contained any untrue statement of a material fact or omitted to state any material fact required to be stated therein or necessary in order to make the statements therein not misleading or (ii) any applicable prospectus, as of its date or at the Remarketing Date, contained or contains any untrue statement of a material fact or omitted or omits to state a material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading (it being understood that such counsel need express no opinion with respect to the financial statements, including the notes and schedules thereto, or any other financial or statistical data that is found in or derived from the internal accounting records of the Company, the Operating Partnership or their respective Subsidiaries set forth in or incorporated by reference into any applicable registration statement or any applicable prospectus).

* Such counsel may rely as to matters of Maryland law upon the opinion of McGuire Woods L.L.P.

** To the extent no registration statement or prospectus is required under the Securities Act in connection with the Remarketing, the foregoing opinions shall be revised as appropriate to reflect such fact.

FORM OF OPINION OF COUNSEL TO THE COMPANY
TO BE DELIVERED PURSUANT TO SECTION 5(d)

1. To the knowledge of such counsel, none of the Company or the Operating Partnership, FIMC, the Mortgage Partnership, FIPC or FIP is in violation of, or default in connection with the performance or observance of any obligation, agreement, covenant or condition contained in any or all of that certain Unsecured Revolving Credit Facility, dated as of September 27, 2002, among the Operating Partnership, as Borrower, the Company, as Guarantor and General Partner, Bank One, NA, and certain other banks as lenders, Banc One Capital Markets, Inc. as Lead Arranger and Sole Book Runner, Bank of America, N.A. as Syndication Agent, and Commerzbank AG, New York and Grand Cayman Branches and Wachovia Bank, N.A., as Documentation Agents (all such indebtedness collectively, the "Credit Documents"), except in each case for defaults that, in the aggregate, are not reasonably expected to have a Material Adverse Effect.

2. The execution and delivery of this Agreement, the performance of the obligations and consummation of transactions set forth herein and therein by the Company and the Operating Partnership did not and do not conflict with, or constitute a breach or violation of, or default under: (A) any or all of the Credit Documents; (B) any applicable law, rule or administrative regulation of the federal government (or agency thereof) of the United States; or (C) any order or administrative or court decree issued to or against, or concerning any or all of the Company, the Operating Partnership, the Partnership Subsidiaries and the Corporate Subsidiaries, of which, in the cases of clauses (B) and (C) above, such counsel is aware, except in each case for conflicts, breaches, violations or defaults that, in the aggregate, would not have a Material Adverse Effect.

3. To the knowledge of such counsel, there are no legal or governmental proceedings pending or threatened that do, or are likely to, have a Material Adverse Effect.

The information in the 10-K under Item 7 "Management's Discussion and Analysis of Financial Condition and Results of Operations--Mortgage Loans Payable" (other than information relating to a certain mortgage loan made available to First Industrial Financing Partnership, L.P. by Nomura Asset Capital Corporation) to the extent that it constitutes statements of law, descriptions of statutes, summaries of principal financing terms of Credit Documents or legal conclusions, has been reviewed by such counsel and is correct in all material respects and presents fairly the information disclosed therein.

* Such counsel may rely as to matters of Maryland law upon the opinion of McGuire Woods L.L.P., and as to matters of New York law upon the opinion of Cahill Gordon & Reindel LLP.

** To the extent no registration statement or prospectus is required under the Securities Act in connection with the Remarketing, the foregoing opinions shall be revised as appropriate to reflect such fact.

FORM OF OPINION OF SPECIAL MARYLAND COUNSEL TO THE COMPANY TO BE DELIVERED
PURSUANT TO SECTION 5(e)

1. Each of the Company and the Corporate Subsidiaries has been duly incorporated and is validly existing as a corporation in good standing under the laws of its respective jurisdiction of incorporation.

2. Each of the Company and the Corporate Subsidiaries has corporate power and authority to own, lease and operate its properties and other assets and to conduct the business in which it is engaged or proposes to engage, in each case, as described in any applicable prospectus, and the Company has the corporate power and authority to enter into and perform its obligations under this Agreement, the Series F Remarketing Agreement, the Deposit Agreements and the Calculation Agent Agreements.

3. The Company's authorized capitalization consists of 10,000,000 shares of preferred stock, par value \$.01 per share, 100,000,000 shares of common stock, par value \$.01 per share and 65,000,000 shares of excess stock, par value \$.01 per share. All of the issued and outstanding shares of capital stock of the Company have been duly authorized and are validly issued, fully paid and non-assessable. All the issued and outstanding shares of capital stock of the Corporate Subsidiaries have been duly authorized and are validly issued, fully paid and non-assessable and are owned by the Company.

4. Each of the Remarketed Securities has been duly authorized for issuance and sale pursuant to this Agreement and the Deposit Agreements, when validly issued and delivered pursuant to this Agreement against payment of the Purchase Price, will be duly authorized, validly issued, fully paid and non-assessable. To the extent Maryland law provides the basis for determination, each of the purchasers thereof is receiving good, valid and marketable title to the Remarketed Securities, free and clear of all security interests, mortgages, pledges, liens, encumbrances, claims and equities if such purchasers acquire such Remarketed Securities in good faith and without notice of any such security interests, mortgages, pledges, liens, encumbrances, claims or equities. The terms of the Remarketed Securities conform in all material respects to all statements and descriptions related thereto contained in any applicable registration statement, the Series G Articles Supplementary and any applicable prospectus. The form of depositary receipt used to evidence the Remarketed Securities are in due and proper form and comply in all material respects with all applicable legal requirements. The issuance of the Remarketed Securities is not subject to any preemptive or other similar rights arising under Maryland General Corporation Law, the Company's charter or bylaws, as amended to date, or any agreement of which such counsel is aware.

5. Each of this Agreement, the Series F Remarketing Agreement, the Series F Articles Supplementary, the Series G Articles Supplementary, the Deposit Agreements and the Calculation Agent Agreements was duly and validly authorized by the Company, on behalf of itself and the Operating Partnership.

6. The execution and delivery of this Agreement, the Series F Remarketing Agreement, the Series F Articles Supplementary, the Series G Articles Supplementary, the Deposit Agreements and the Calculation Agent Agreements, the performance of the obligations and the consummation of the transaction set forth herein and therein by the Company will not

require, to the knowledge of such counsel, any consent, approval, authorization or other order of any Maryland court, regulatory body, administrative agency or other governmental body (except as such may be required under the Securities Act or other securities laws) and did not and do not conflict with or constitute a breach or violation of or default under: (A) the charter or bylaws, as the case may be, of the Company; and (B) any applicable Maryland law, rule or administrative regulation or any order or administrative or court decree of which such counsel is aware, except in the case of clause (B) above for conflicts, breaches, violations or defaults that in the aggregate would not have a Material Adverse Effect.

7. To the knowledge of such counsel, no Material authorization, approval, consent or order of any Maryland court, governmental authority, agency or other entity is required in connection with the offering, issuance or sale of the Remarketed Securities hereunder, except such as may be required under Maryland securities, blue sky or real estate syndication laws.

8. The information in any applicable prospectus under "Certain Provisions of Maryland Law and First Industrial Realty Trust, Inc.'s Articles of Incorporation and Bylaws" and "Restrictions on Transfers of Capital Stock", and "Description of Preferred Stock" and in Part II of any applicable registration statement under Item 15, to the extent that it constitutes statements of law, descriptions of statutes, rules or regulations, summaries of documents or legal conclusions, has been reviewed by such counsel and, as to Maryland law, is correct in all material respects and presents fairly the information required to be disclosed therein.

9. The Company and each of the Corporate Subsidiaries was authorized to enter into the partnership agreement of each Partnership Subsidiary for which the Company, the Operating Partnership or such Corporate Subsidiary, as the case may be, is the general partner.

* Such counsel may rely as to matters of Illinois law upon the opinion of Barack Ferrazzano Kirschbaum, Perlman & Nagelberg and as to matters of New York law upon the opinion of Cahill Gordon & Reindel LLP.

** To the extent no registration statement or prospectus is required under the Securities Act in connection with the Remarketing, the foregoing opinions shall be revised as appropriate to reflect such fact.

FORM OF OPINION OF
CLIFFORD CHANCE US LLP TO BE DELIVERED
PURSUANT TO SECTION 5(f)

1. The Operating Partnership has been duly formed and is validly existing as a limited partnership in good standing under the laws of its state of organization.

2. The Company has been duly incorporated and is validly existing as a corporation in good standing under the laws of its respective jurisdiction of incorporation.

3. This Agreement and the Series F Remarketing Agreement were duly and validly authorized, executed and delivered by each of the Company and the Operating Partnership and the Deposit Agreements and the Calculation Agent Agreements were duly and validly authorized executed and delivered by the Company.

4. The Remarketed Securities conform in all material respects to the descriptions thereof in any applicable registration statement and any applicable prospectus under the caption "Description of Preferred Stock" and under the caption "Description of the Preferred Shares."

5. The purchasers of the Remarketed Securities are receiving good, valid and marketable title to the Remarketed Securities, free and clear of all security interests, mortgages, pledges, liens, encumbrances, claims and equities if such purchasers acquire such Remarketed Securities in good faith and without notice of any such security interests, mortgages, pledges, liens, encumbrances, claims or equities.

In addition, we have participated in conferences with officers and other representatives of the Company and the Operating Partnership, representatives of the independent public accountants for the Company and the Operating Partnership and representatives of the Remarketing Agent at which the contents of any applicable registration statement and any applicable prospectus and related matters were discussed. On the basis thereof, but without independent verification by such counsel of, and without passing upon or assuming any responsibility for, the accuracy, completeness or fairness of the statements contained in any applicable registration statement or any applicable prospectus or any amendments or supplements thereto, no facts have come to the attention of such counsel that lead them to believe that (i) any applicable registration statement, including the documents incorporated therein by reference, at the time such Registration Statement became effective, contained any untrue statement of a material fact or omitted to state any material fact required to be stated therein or necessary in order to make the statements therein not misleading or (ii) any applicable prospectus, as of its date or at the Remarketing Date, contained or contains any untrue statement of a material fact or omitted or omits to state a material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading (it being understood that such counsel need express no opinion with respect to the financial statements, including the notes and schedules thereto, or any other financial or statistical data that is found in or derived from the internal accounting records of the Company, the Operating Partnership or their respective Subsidiaries set forth in or incorporated by reference into any applicable registration statement or any applicable prospectus).

* Such counsel may rely as to matters of Illinois law upon the opinion of Barack Ferrazzano Kirschbaum, Perlman & Nagelberg, and as to matters of Maryland law upon the opinion of McGuire Wood L.L.P.

** To the extent no registration statement or prospectus is required under the Securities Act in connection with the Remarketing, the foregoing opinions shall be revised as appropriate to reflect such fact.