

SECURITIES AND EXCHANGE COMMISSION

Washington, D. C. 20549

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FORM 8-K

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

Date of earliest event reported: May 13, 1997

First Industrial Realty Trust, Inc.  
(Exact name of registrant as specified in its charter)

Maryland (State or other jurisdiction of organization)	1-13102 (Reporting File Number)	36-3935116 (I.R.S. Employer Identification No.)
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150 N. Wacker Drive, Suite 150 Chicago, Illinois (Address of principal executive offices)	60606 (Zip Code)
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(312) 704-9000

(Registrant's telephone number, including area code)

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Item 7. Financial Statements and Exhibits

Exhibit Number	Exhibit
1.1	Underwriting agreement relating to Depositary Shares each representing 1/100 of a share of 8 3/4% Series B Cumulative Preferred Stock with a liquidation preference equivalent to \$25.00 per Depositary Share.
4.1	Form of Articles Supplementary to the Amended and Restated Articles of Incorporation of the Company relating to the Company's Series B Cumulative Preferred Stock, par value \$.01.
4.2	Form of Deposit Agreement.
4.3	Form of Depositary Receipt to be issued pursuant to the Deposit Agreement.
4.4	Form of Stock Certificate for Series B Cumulative Preferred Stock.
10.1	Form of Third Amended and Restated Limited Partnership Agreement of First Industrial, L.P.

SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, as amended, 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/ Michael J. Havala

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Name: Michael J. Havala  
Title: Chief Financial Officer, Treasurer  
and Secretary

Date: May 13, 1997

## Exhibit Index

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4,000,000 Shares  
FIRST INDUSTRIAL REALTY TRUST, INC.  
Depository Shares Each Representing 1/100 of a  
Share of 8 3/4% Series B Cumulative Preferred Stock  
(Liquidation Preference Equivalent to \$25.00 per Depository Share)

UNDERWRITING AGREEMENT

May 9, 1997

SMITH BARNEY INC.  
DONALDSON, LUFKIN & JENRETTE  
SECURITIES CORPORATION  
as Representatives of the several Underwriters  
listed on Schedule I hereto

c/o Smith Barney Inc.  
388 Greenwich Street  
New York, New York 10013

Dear Ladies and Gentlemen:

First Industrial Realty Trust, Inc., a Maryland corporation (the "Company"), proposes to issue and sell 4,000,000 depository shares each representing 1/100 of a share of 8 3/4% Series B Cumulative Preferred Stock (Liquidation Preference Equivalent to \$25.00 per Depository Share) of the Company, par value \$.01 per share (the "Firm Shares"), to be issued under a deposit agreement (the "Deposit Agreement") between the Company and First Chicago Trust Company, as Depository (the "Depository") to the several underwriters named in Schedule I hereto (the "Underwriters") for whom you are acting as Representatives (the "Representatives"). The Company also proposes to issue and sell to the several Underwriters not more than 600,000 additional depository shares each representing 1/100 of a share of 8 3/4% Series B Cumulative Preferred Stock (Liquidation Preference Equivalent to \$25.00 per Depository Share), par value \$.01 per share (the "Additional Shares"), if requested by the Underwriters as provided in Section 2 hereof. The Firm Shares and the Additional Shares are herein collectively called the "Shares." The Shares to be outstanding after giving effect to the sales contemplated hereby are hereinafter referred to as the Series B Preferred Stock.

1. Registration Statement and Prospectus. The Company and 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 called the "Act"), a

registration statement on Form S-3 (Registration No. 333-21873) including a preliminary prospectus relating to the registration of the Shares and such other securities which may be offered from time to time by the Company and/or the Operating Partnership, as the case may be, in accordance with Rule 415 under the Act. Such registration statement (as amended, if applicable) was declared effective by the Commission on April 30, 1997. Such registration statement (as amended, if applicable), on the one hand, and the prospectus constituting a part thereof and the prospectus supplement relating to the offering of the Shares provided to the Underwriters by the Company (whether or not such prospectus supplement is required to be filed with the Commission by the Company pursuant to the Act) (the "Prospectus Supplement"), on the other hand, including all documents incorporated therein by reference pursuant to item 12 of Form S-3 under the Act, as from time to time amended or supplemented pursuant to the Act, the Securities Exchange Act of 1934, as amended, and the rules and regulations of the Commission thereunder (collectively called the "Exchange Act") are referred to herein as the "Registration Statement" and the "Prospectus," respectively; provided, however, that a Prospectus Supplement shall be deemed to have supplemented the Prospectus only with respect to the offering of the Shares to which it relates. Any registration statement (including any amendment or supplement thereto or information which is deemed part thereof) filed by the Company under Rule 462(b) of the Act (a "Rule 462(b) Registration Statement") shall be deemed to be part of the "Registration Statement" as defined herein and any prospectus or any term sheet as contemplated by Rule 434 of the Act (a "Term Sheet") (including any amendment or supplement thereto or information which is deemed part thereof) included in such registration statement shall be deemed to be part of the "Prospectus," as defined herein. 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; and all references in

this Agreement to amendments or supplements to the Registration Statement or the Prospectus shall be deemed to mean and include, without limitation, even though not specifically stated, any document filed under the Exchange Act which is or is deemed to be incorporated by reference in the Registration Statement or the Prospectus, as the case may be. Capitalized terms used but not otherwise defined herein shall have the meanings given to those terms in the Prospectus.

2. Agreements to Sell and Purchase. On the basis of the representations and warranties contained in this Agreement, and subject to its terms and conditions, the Company agrees to issue and sell the Firm Shares and each Underwriter agrees, severally and not jointly, to purchase from the Company at a price per share of \$24.2125 (the "Purchase Price"), the number of Firm Shares set forth opposite the name of such Underwriter in Schedule I hereto (or such number of Firm Shares increased as set forth in Section 9 hereof).

On the basis of the representations and warranties contained in this Agreement, and subject to its terms and conditions, the Company agrees to issue and sell the Additional Shares, and the Underwriters shall have the right to purchase, severally and not jointly, the Additional Shares from the Company at the Purchase Price. Additional Shares may be purchased solely for the purpose of covering over-allotments made in connection with the offering of the Firm Shares. The Underwriters may exercise their right to purchase Additional

Shares in whole or in part from time to time by giving written notice thereof to the Company within thirty (30) days after the date of this Agreement, provided that if such thirtieth (30th) day is not a New York Stock Exchange (the "NYSE") trading day, the thirtieth (30th) day will be the next succeeding NYSE trading day. Such notice shall specify the aggregate number of Additional Shares to be purchased pursuant to such exercise and the date for payment and delivery thereof. The date specified in any such notice shall be a business day (i) no earlier than the Closing Date (as hereinafter defined), (ii) no later than seven business days after such notice has been given and (iii) no earlier than two (2) business days after such notice has been given; unless otherwise agreed upon by the Underwriters and the Company. If any Additional Shares are to be purchased, each Underwriter, severally and not jointly, agrees to purchase from the Company the number of Additional Shares (subject to such adjustments to eliminate fractional shares as you may determine) which bears the same proportion to the total number of Additional Shares to be purchased from the Company as the number of Firm Shares set forth opposite the name of such Underwriter in Schedule I bears to the total number of Firm Shares (or such number of Firm Shares increased as set forth in Section 9 hereof).

3. Terms of Public Offering. The Company is advised by you that the Underwriters propose (i) to make a public offering (the "Offering") of their respective portions of the Shares as soon after the execution and delivery hereof as in your judgment is advisable (and, if necessary, any post-effective amendment to the Registration Statement) and (ii) initially to offer the Shares upon the terms set forth in the Prospectus.

4. Delivery and Payment. Delivery to the Underwriters of certificates for, and payment of the Purchase Price for the Firm Shares shall be made, subject to Section 9, at 10:00 A.M., New York City time, on the fourth business day (or the third business day if required under Rule 15c6-1 of the Exchange Act) following the date hereof, or such other time not later than ten business days after such date as shall be agreed upon by the Underwriters and the Company (such time and date of payment and delivery being herein called the "Closing Date") at the offices of Rogers & Wells, 200 Park Avenue, New York, New York 10166. The Closing Date and the location of, delivery of and the form of payment for the Firm Shares may be varied by agreement between you and the Company.

Delivery to the Underwriters of certificates for, and payment of the Purchase Price for any Additional Shares to be purchased by the Underwriters shall be made at the offices of Rogers & Wells, 200 Park Avenue, New York, New York 10166, or at such other place as you shall designate, at 10:00 A.M., New York City time, on the date specified in the applicable exercise notice given by you pursuant to Section 2 (an "Option Closing Date"). Any such Option Closing Date and the location of, delivery of and the form of payment for such Additional Shares may be varied by agreement between you and the Company.

Certificates for the Shares shall be registered in such names and issued in such denominations as you shall request in writing not later than two full business days prior to the Closing Date or an applicable Option Closing Date, as the case may be. Such certificates shall be made available to you for inspection not later than 9:30 A.M., New York City time, on the business day next preceding the Closing Date or an applicable Option Closing Date, as the case may be. Certificates in temporary form evidencing the Shares shall be delivered to you on the

Closing Date or an applicable Option Closing Date, as the case may be, with any transfer taxes thereon duly paid by the Company, for the respective accounts of the several Underwriters, against payment of the Purchase Price therefor by intra-bank transfer or wire transfer of same day funds to such account as may be designated by the Company at least two business days prior to the Closing Date. Any Underwriter may (but shall not be obligated to) make payment of the Purchase Price for the Firm Shares or the Additional Shares, if any, to be purchased by any other Underwriter whose payment has not been received by the Closing Date or the applicable Option Closing Date, as the case may be, but any such payment shall not relieve such Underwriter from its obligations hereunder.

5. Agreements of the Company and the Operating Partnership. Each of the Company and the Operating Partnership severally agrees with you as follows:

(a) In respect of the offering of Shares, the Company will (i) prepare a Prospectus Supplement setting forth the number of Shares covered thereby and their terms not otherwise specified in the Prospectus pursuant to which the Shares are being issued, the names of the Underwriters participating in the offering and the number of Shares 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 Shares 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 Shares, (ii) file the Prospectus in a form approved by you pursuant to Rule 424 under the Securities Act no later than the Commission's close of business on the second Business Day following the date of determination of the offering price of the Shares and (iii) furnish copies of the Prospectus to the Underwriters and to such dealers as you shall specify in New York City 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 Act or the Exchange Act in connection with sales of Shares, 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 Act, (iii) the receipt of any comments from the Commission relating to the Registration Statement, any preliminary prospectus relating to the Shares, 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 Shares 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 therein, and to furnish to you such number of conformed copies of the Registration Statement as so filed and of each amendment to it and document incorporated by reference therein, 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 Act or the Exchange Act in connection with sales of Shares, 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 or any Term Sheet, if applicable, 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, Term Sheet, 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 Shares 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 Act or the Exchange Act in connection with sales of Shares, 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 Shares for offer and sale by the several Underwriters under the applicable state securities or Blue Sky laws 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 Shares 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 Shares 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 (60) days after the close of the period covered thereby (ninety (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 Act) covering a period of at least twelve (12) months after the effective date of the Registration Statement (but in no event commencing later than ninety (90) days after such date) which shall satisfy the provisions of Section 11(a) of the Act, and, if required by Rule 158 of the 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 of five years after the date of this Agreement, the Company will furnish to you as soon as available (x) a copy of each regular and periodic report, financial statement or other publicly available information of the Company and any of its subsidiaries mailed to the holders of the Shares or filed with the Commission or any securities exchange and (y) such other publicly available information concerning the Company and any of its Subsidiaries as you may reasonably request.

(i) During the period when the Prospectus is required to be delivered under the Act or the Exchange Act in connection with sales of the Shares, 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 pay all costs, expenses, fees and taxes incident to (i) the preparation, printing, filing and distribution under the Act of the Registration Statement and any amendment thereto (including financial statements and exhibits), each Preliminary Prospectus, the Prospectus and all amendments and supplements to any of them prior to or during the period specified in paragraph 5(c), (ii) the printing and delivery of this Agreement, the Deposit Agreement and the Blue Sky Memorandum, (iii) the qualification or registration of the Shares for offer and sale under the securities, Blue Sky laws or real estate syndication laws of the several states in accordance with Section 5(g) 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 Shares, (vi) the fee of and the listing of the Shares on the New York Stock Exchange, Inc. ("NYSE"), (vii) 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 Shares by the Underwriters or by dealers to whom Shares may be sold, (viii) the preparation, issuance and delivery of certificates for the Shares to the Underwriters, (ix) the costs and charges of any transfer agent or registrar, (x) the cost and expenses of the Depositary under the Deposit Agreement, (xi) any expenses incurred by the Company in connection with a "road show" presentation to potential investors, (xii) any transfer taxes imposed on the sale by the Company of the Shares to the Underwriters and (xiii) the fees and disbursements of the Company's counsel and accountants.

(k) The Company will use its best efforts to maintain the listing of the Shares on the NYSE for a period of two years after the Closing Date and thereafter unless the Company's Board of Directors determines that it is no longer in the best interests of the Company for the Shares to continue to be so listed.

(l) 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 or any Option Closing Date, as the case may be, and to satisfy all conditions precedent to the delivery of the Shares.

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

(n) 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 Directors determines that it is no longer in the best interests of the Company to be so qualified.

(o) 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 Shares to facilitate the sale or resale of any of the Shares in violation of the Act.

6. Representations and Warranties of the Company and the Operating Partnership. 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 and, if applicable, any Term Sheet to 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 Act and will contain all statements required to be stated therein in accordance with the Act. The Prospectus, including the financial statements, schedules and related notes included or incorporated by reference in the Prospectus, and if applicable, any Term Sheet to 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 Act and will contain all statements required to be stated therein in accordance with the 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 Shares, the Company will have complied or will comply with the requirements of Rule 111 under the Act relating to the payment of filing fees therefor. The foregoing representations and warranties in this Section 6(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 by the Underwriters specifically for inclusion in the Registration Statement or Prospectus or any amendment or supplement thereto. The Company has not distributed, and prior to the later of the Closing Date and the completion of the distribution of the Shares, will not distribute, any offering material in connection with the offering or sale of the Shares other than the Registration Statement, the Preliminary Prospectus (as hereinafter defined), the Prospectus or any other materials, if any, permitted by the Act (which were disclosed to the Underwriters and Underwriters' counsel).

(c) The preliminary prospectus supplement, dated May 8, 1997, filed pursuant to Rule 424 under the Act (the "Preliminary Prospectus") 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 Act; did not or will 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; and each Preliminary Prospectus and the Prospectus delivered to the Underwriters for use in connection with the offering of Shares 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 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 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 5(c) 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 6(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 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. Each of the Operating Partnership, 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"), First Industrial Indianapolis, L.P. ("FII"), First Industrial Harrisburg, L.P. ("FIH"), First Industrial Development Services Group, L.P. ("DSG") and First Industrial Pennsylvania Partnership, L.P. ("FIP") (the Operating Partnership, the Financing Partnership, Securities, L.P., the Mortgage Partnership, FII, FIH, DSG 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. Each of First Industrial Securities Corporation ("FISC"), First Industrial Finance Corporation ("FIFC"), First Industrial Mortgage Corporation ("FIM"), First Industrial Pennsylvania Corporation ("FIPC"), First Industrial Indianapolis Corporation ("FIIC"), First Industrial Harrisburg Corporation ("FIHC"), FI Development Services Corporation ("FIDSG"), FR Acquisitions, Inc. ("FRA"), First Industrial Management Corporation ("FIMC," and together with FISC, FIFC, FIM, FIPC, FIIC, FIHM, FIDSG and FRA 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"), 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 organization. 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 FII. FIDSG is a wholly-owned subsidiary of the Company and is the sole general partner of DSG. The Operating Partnership is the sole limited partner of each Partnership Subsidiary (except for Securities, L.P.). The Company and each of the Subsidiaries has, and at the Closing Date and, if later, an Option Closing Date, will have, full corporate or partnership 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 Registration Statement or the Prospectus and the transactions contemplated hereby and thereby. The Company and each of the Corporate Subsidiaries is, and at the Closing Date or, if later, an Option 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 Company and its Subsidiaries, taken as whole or on the 379 in service properties owned, directly or indirectly, by the Company as of December 31, 1996 (the "Properties"), (ii) the issuance, validity or enforceability of the shares or the enforceability of the Deposit Agreement or (iii) the consummation of any of the transactions contemplated by this Agreement and/or the Deposit Agreement (a "Material Adverse Effect"), which jurisdictions of foreign qualification or registration are attached on Schedule II hereto. Each of the Partnership Subsidiaries is, and at the Closing Date or, if later, an Option 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 qualifications or registration will not have a Material Adverse Effect, which jurisdictions of foreign qualification or registration are attached on Schedule II hereto. Complete and correct copies of the articles of incorporation and of the by-laws of the Company 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 Shares 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 Shares have been duly authorized for listing on the NYSE, subject to official notice of issuance. The description of the Shares, 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 Shares in accordance herewith, each of the Underwriters will receive good, valid and marketable title to the Shares, 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 Shares will be in due and proper form and will comply, in all material respects, with all applicable legal requirements and the requirements of the NYSE. 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 the general partner and as a limited partner and the partnership agreement of each Partnership Subsidiary, other than the Operating Partnership, will have been duly authorized, validly executed and delivered by each partner thereto and is valid, legally binding and enforceable in accordance with its terms 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; immediately following the Closing Date, all of the issued and outstanding shares of capital stock of each Corporate 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 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 and the Subsidiaries) and all of the partnership interests in each Partnership

Subsidiary will have been duly authorized and 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 and the Subsidiaries).

(h) The financial statements, supporting schedules and related notes included, 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 or incorporated by reference 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 in the Prospectus has been prepared in accordance with the applicable requirements of the 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 or incorporated by reference therein at the respective dates indicated and the results of operations and cash flows for the respective periods specified. The Company's ratio of earnings to fixed charges and preferred dividend requirements 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, or any predecessor of the Company are required by the Act or the Exchange Act to be included in the Registration Statement or the Prospectus. Coopers & Lybrand L.L.P. (the "Accountants") who have reported on such financial statements, schedules and related notes, are independent public accountants with respect to the Company as required by the 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 the Company or any of its Subsidiaries which would be material to the Company and its Subsidiaries considered as one enterprise (anything which would be material to the Company and its Subsidiaries, considered as one enterprise, being hereinafter referred to as "Material"), (ii) except as described in the Prospectus, neither the Company nor any of its 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, and (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 Series A Preferred Stock, par value \$.01 per share (the "Series A 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.

(j) Neither the Company nor any of its Subsidiaries is, or as of the Closing Date or, if later, an Option 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, 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 Company or any of its 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 and each of its Subsidiaries (i) has, and at the Closing Date or, if later, an Option 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) is not, and at the Closing Date or, if later, an Option 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 Company and each of its 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 Company nor any of its Subsidiaries is, nor at the Closing Date or, if later, an Option 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 Shares hereunder except such as have been obtained under the Act and 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 interest rule of the NASD or the requirements of the NYSE in connection with the purchase and distribution by the Underwriters of the Shares or such as have been received prior to the date of this Agreement, and except for the filing of this Agreement and the Deposit Agreement 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 this Agreement and the Deposit Agreement, to the extent each is a party thereto. Each of this Agreement and the Deposit Agreement has been duly and validly authorized, executed and delivered by the Company and the Operating Partnership, to the extent each is a party thereto and constitutes a valid and binding agreement of the Company and the Operating Partnership, to the extent each is a party thereto, and assuming due authorization, execution and delivery by the Underwriters, is enforceable, against the Company and the Operating Partnership, to the extent each is a Party thereto, in accordance with the terms hereof 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 and the consummation of the transactions contemplated hereby and the compliance by each of the Company and the Subsidiaries with their obligations hereunder, will not result in the creation or imposition of any lien, charge or encumbrance upon any of the assets or properties of the Company or any of its 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, partnership agreement or other organizational documents of the Company or any of its Subsidiaries, any Contract or Other Agreement to which the Company or any of its Subsidiaries is a party or by which the Company or any of its 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 Company or any of its 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 or, if later, an Option Closing Date, the Company and each of its subsidiaries will have good and marketable title to all Material 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 Company and the Subsidiaries, or would not result in a Material Adverse Effect.

(p) 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.

(q) The Company and the Partnership Subsidiaries have property, title, casualty and liability insurance in favor of 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 Company and the Partnership Subsidiaries except in such instances where the tenant is carrying such insurance or the tenant is self-insuring such risks.

(r) Except as disclosed in the Prospectus, and, except for activities, conditions, circumstances or matters that would not have a Material Adverse Effect; (A) to the knowledge of the Company and its Subsidiaries, after due inquiry, the operations of the Company and its 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; (B) to the knowledge of the Company and its Subsidiaries, after due inquiry, none of the Company or its 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; (C) none of the Company or its 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; (D) none of the Company or its 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 (E) no Property is included or, to the knowledge of the Company and its

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 Company and its 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, PCBs, 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 Company or any of its Subsidiaries, and none of them nor any of their directors, officers or employees is

connected with the Company or any of its Subsidiaries as a promoter, selling agent, voting trustee, director, officer or employee.

(s) The Company and its Subsidiaries are organized and operate in a manner so as to qualify as a real estate investment trust (the "REIT") under Sections 856 through 860 of the Code, as amended (the "Code"), and have elected to be taxed as a REIT under the Code commencing with the taxable year ending December 31, 1994. The Company and its Subsidiaries intend to continue to qualify as a REIT for the foreseeable future.

(t) There is no 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, except for the filing of this Agreement and the Deposit Agreement 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.

(u) On the Closing Date, the Shares will be duly authorized for listing on the NYSE subject to official notice of issuance.

(v) None of the Company or any of its Subsidiaries is involved in any labor dispute nor, to the knowledge of the Company or its Subsidiaries, after due inquiry, is any such dispute threatened which would have a Material Adverse Effect.

(w) The Company and its 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, 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 Company and its Subsidiaries, of such trademarks and trade names does not, to the Company's knowledge, infringe on the rights of any person.

(x) The Company and each of its 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) Each of the Partnership Subsidiaries is properly treated as a partnership for federal income tax purposes and not as a "publicly traded partnership."

(z) No relationship, direct or indirect, exists between or among the Company or the Subsidiaries on the one hand, and the directors, officers, stockholders, customers or suppliers of the Company or the Subsidiaries on the other hand, which is required by the 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 Shares, and the Company has not distributed and have agreed not to distribute any prospectus or other offering material in connection with the offering and sale of the Shares 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);

(ab) 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;

(ac) The Shares will have the following investment grade ratings from each of Standard & Poor's Corporation ("S&P") ("BBB-"), Moody's Investors Service, Inc. ("Moody's") ("baa3"), Fitch Investors Services, L.P. ("Fitch") ("BBB") and Duff & Phelps ("D&P") ("BBB-"), at each applicable Representation Date;

(ad) 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, threatened by the Commission or by the state securities authority of any jurisdiction. No order preventing or suspending the use of the 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; and

(ae) Any certificate or other document signed by any officer or authorized representative of the Company or any Subsidiary, and delivered to the Underwriters or to counsel for the Underwriters in connection with the sale of the Shares 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.

7. Indemnification and Contribution. (a) The Company agrees to indemnify and hold harmless each of you and each other Underwriter and each person, if any, who controls any Underwriter within the meaning of Section 15 of the Act or Section 20 of the Exchange Act

from and against any and all losses, claims, damages, liabilities and expenses (including reasonable costs of investigation) arising out of or based upon any untrue statement or alleged untrue statement of a material fact contained in any Preliminary Prospectus or in the Registration Statement or the Prospectus or in any amendment or supplement thereto, or arising out of or based upon any omission or alleged omission to state therein a material fact required to be stated therein or necessary to make the statements not misleading, except insofar as such losses, claims, damages, liabilities or expenses arise out of or are based upon any untrue statement or omission or alleged untrue statement or omission which has been made therein or omitted therefrom in reliance upon and in conformity with the information relating to such Underwriter furnished in writing to the Company by or on behalf of any Underwriter through you expressly for use in connection therewith; provided, however, that the indemnification contained in this paragraph (a) with respect to any Preliminary Prospectus shall not inure to the benefit of any Underwriter (or to the benefit of any person controlling such Underwriter) on account of any such loss, claim, damage, liability or expense arising from the sale of the Shares by such Underwriter to any person if a copy of the Prospectus shall not have been delivered or sent to such person within the time required by the Act and the regulations thereunder, and the untrue statement or alleged untrue statement or omission or alleged omission of a material fact contained in such Preliminary Prospectus was corrected in the Prospectus, provided that the Company has delivered the Prospectus to the several Underwriters in requisite quantity on a timely basis to permit such delivery or sending. The foregoing indemnity agreement shall be in addition to any liability which the Company may otherwise have.

(b) If any action, suit or proceeding shall be brought against any Underwriter or any person controlling any Underwriter in respect of which indemnity may be sought against the Company, such Underwriter or such controlling person shall promptly notify the Company and the Company shall assume the defense thereof, including the employment of counsel and payment of all fees and expenses. Such Underwriter or any such controlling person shall have the right to employ separate counsel in any such action, suit or proceeding and to participate in the defense thereof, but the fees and expenses of such counsel shall be at the expense of such Underwriter or such controlling person unless (i) the Company has agreed in writing to pay such fees and expenses, (ii) the Company has failed to assume the defense and employ counsel, or (iii) the named parties to any such action, suit or proceeding (including any impleaded parties) include both such Underwriter or such controlling person and the Company and such Underwriter or such controlling person shall have been advised by its counsel that representation of such indemnified party and the Company by the same counsel would be inappropriate under applicable standards of professional conduct (whether or not such representation by the same counsel has been proposed) due to actual or potential differing interests between them (in which case the Company shall not have the right to assume the defense of such action, suit or proceeding on behalf of such Underwriter or such controlling person). It is understood, however, that the Company shall, in connection with any one such action, suit or proceeding or separate but substantially similar or related actions, suits or proceedings in the same jurisdiction arising out of the same general allegations or circumstances, be liable for the reasonable fees and expenses of only one separate firm of attorneys (in addition to any local counsel) at any time for all such Underwriters and controlling persons not having actual or potential differing interests with you or among themselves, which firm shall be designated in writing by Smith Barney Inc., and that all such fees and expenses shall be reimbursed as they are incurred. The Company

shall not be liable for any settlement of any such action, suit or proceeding effected without its written consent, but if settled with such written consent, or if there be a final judgment for the plaintiff in any such action, suit or proceeding, the Company agrees to indemnify and hold harmless any Underwriter, to the extent provided in the preceding paragraph, and any such controlling person from and against any loss, claim, damage, liability or expense by reason of such settlement or judgment.

(c) Each Underwriter agrees, severally and not jointly, to indemnify and hold harmless the Company, its directors, its officers who sign the Registration Statement, and any person who controls the Company within the meaning of Section 15 of the Act or Section 20 of the Exchange Act, to the same extent as the foregoing indemnity from the Company to each Underwriter, but only with respect to information relating to such Underwriter furnished in writing by or on behalf of such Underwriter through you expressly for use in the Registration Statement, the Prospectus or any Preliminary Prospectus, or any amendment or supplement thereto. If any action, suit or proceeding shall be brought against the Company, any of its directors, any such officer, or any such controlling person based on the Registration Statement, the Prospectus or any Preliminary Prospectus, or any amendment or supplement thereto, and in respect of which indemnity may be sought against any Underwriter pursuant to this paragraph (c), such Underwriter shall have the rights and duties given to the Company by paragraph (b) above (except that if the Company shall have assumed the defense thereof, such Underwriter shall not be required to do so, but may employ separate counsel therein and participate in the defense thereof, but the fees and expenses of such counsel shall be at such Underwriter's expense), and the Company, its directors, any such officer, and any such controlling person shall have the rights and duties given to the Underwriters by paragraph (b) above. The foregoing indemnity agreement shall be in addition to any liability which the Underwriters may otherwise have.

(d) If the indemnification provided for in this Section 7 is unavailable to an indemnified party under paragraphs (a) or (c) hereof in respect of any losses, claims, damages, liabilities or expenses referred to therein, then an indemnifying party, in lieu of indemnifying such indemnified party, shall contribute to the amount paid or payable by such indemnified party as a result of such losses, claims, damages, liabilities or expenses (i) in such proportion as is appropriate to reflect the relative benefits received by the Company on the one hand and the Underwriters on the other hand from the offering of the Shares, or (ii) if the allocation provided by clause (i) above is not permitted by applicable law, in such proportion as is appropriate to reflect not only the relative benefits referred to in clause (i) above but also the relative fault of the Company on the one hand and the Underwriters on the other in connection with the statements or omissions that resulted in such losses, claims, damages, liabilities or expenses, as well as any other relevant equitable considerations. The relative benefits received by the Company on the one hand and the Underwriters on the other shall be deemed to be in the same proportion as the total net proceeds from the offering (before deducting expenses) received by the Company bear to the total underwriting discounts and commissions received by the Underwriters, in each case as set forth in the table on the cover page of the Prospectus. The relative fault of the Company on the one hand and the Underwriters on the other hand 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 on the one hand or by the Underwriters on the other hand and the parties' relative intent, knowledge, access to information and opportunity to correct or prevent such statement or omission.

(e) The Company and the Underwriters agree that it would not be just and equitable if contribution pursuant to this Section 7 were determined by a 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 paragraph (d) above. The amount paid or payable by an indemnified party as a result of the losses, claims, damages, liabilities and expenses referred to in paragraph (d) above shall be deemed to include, subject to the limitations set forth above, any legal or other expenses reasonably incurred by such indemnified party in connection with investigating any claim or defending any such action, suit or proceeding. Notwithstanding the provisions of this Section 7, no Underwriter shall be required to contribute any amount in excess of the amount by which the total price of the Shares underwritten by it and distributed to the public exceeds the amount of any damages which 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 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 7 are several in proportion to the respective numbers of Firm Shares set forth opposite their names in Schedule I hereto (or such numbers of Firm Shares increased as set forth in Section 9 and not joint.

(f) No indemnifying party shall, without the prior written consent of the indemnified party, effect any settlement of any pending or threatened action, suit or proceeding in respect of which any indemnified party is or could have been a party and indemnity could have been sought hereunder by such indemnified party, unless such settlement includes an unconditional release of such indemnified party from all liability on claims that are the subject matter of such action, suit or proceeding.

(g) Any losses, claims, damages, liabilities or expenses for which an indemnified party is entitled to indemnification or contribution under this Section 7 shall be paid by the indemnifying party to the indemnified party as such losses, claims, damages, liabilities or expenses are incurred. The indemnity and contribution agreements contained in this Section 7 and the representations and warranties of the Company set forth in this Agreement shall remain operative and in full force and effect, regardless of (i) any investigation made by or on behalf of any Underwriter or any person controlling any Underwriter, the Company, its directors or officers, or any person controlling the Company, (ii) acceptance of any Shares and payment therefor hereunder, and (iii) any termination of this Agreement. A successor to any Underwriter or any person controlling any Underwriter, or to the Company, its directors or officers, or any person controlling the Company, shall be entitled to the benefits of the indemnity, contribution and reimbursement agreements contained in this Section 7.

8. Conditions of Underwriters' Obligations. The several obligations of the Underwriters to purchase the Firm Shares and the Additional Shares, as the case may be, under this Agreement are subject to the satisfaction of each of the following conditions:



(a) All the representations and warranties of the Company and the Operating Partnership contained in this Agreement shall be true and correct, in all material respects, on the Closing Date, with the same force and effect as if made on and as of the Closing Date; and as of an Option Closing Date, if any, to the knowledge of the Company and the Operating Partnership, such representations and warranties were true and correct, in all Material respects, as of the date of this Agreement and on the Closing Date. On or before any Option Closing Date, if any, the Company shall disclose to the Underwriters the information which would make such representations and warranties not true and correct, in all Material respects, as of such Option Closing Date and the Company 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.

(b) 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 shall have been issued and no proceedings for that purpose shall have been commenced or shall be pending before or threatened by the Commission to the knowledge, after due inquiry, of the Company. No stop order suspending the effectiveness of the Registration Statement shall have been issued and no proceedings for that 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.

(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 adverse 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 your judgment makes it impracticable or inadvisable to proceed with the public offering or the delivery of the Shares 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, 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 and on and as of any applicable Option Closing Date, as the case may be, a certificate signed by the Chairman of the Board of Directors or President or Chief Executive Officer of the Company and the Chief Financial or Accounting 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;

(f) You shall have received on the Closing Date and, if later, an Option Closing Date an opinion or opinions (satisfactory to you and counsel for the Underwriters), dated the Closing Date, and the Option Closing Date, as the case may be, of Cahill Gordon & Reindel, 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 II hereto. Each of the Corporate Subsidiaries 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 II hereto.

(ii) 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. Each of the Partnership Subsidiaries has all requisite partnership power and authority to own, lease and operate its properties and other assets, 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. 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 II hereto.

(iii) To the knowledge of such counsel, other than the Additional Shares, 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 shares of preferred stock of the Company. To the knowledge of such counsel, no shares of capital stock of any of the Corporate Subsidiaries are reserved for any purpose, and there are no outstanding securities convertible into or exchangeable for any capital stock of the Corporate Subsidiaries, and no outstanding options, rights (preemptive or otherwise) or warrants to purchase or to subscribe for shares of such capital stock or any other securities of the Corporate Subsidiaries, except as disclosed in the Prospectus. To the knowledge of such counsel, all of the outstanding partnership interests of the Operating Partnership, the Financing Partnership, Securities, L.P. and the Mortgage Partnership 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, the Financing Partnership, Securities, L.P., FISC, FIFC, FIMC or the Mortgage Partnership is in violation of or default under its charter, by-laws, 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 contract, indenture, mortgage, loan agreement, note, lease, joint venture or partnership agreement or other instrument 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 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 the Properties) except in each case for violations or defaults which in the aggregate are not reasonably expected to have a Material Adverse Effect.

(v) Each of this Agreement and the Deposit Agreement was duly and validly authorized, executed and delivered by each of the Company and the Operating Partnership.

(vi) The execution and delivery of this Agreement and the Deposit Agreement, the issuance and sale of the Shares, the performance of the obligations set forth herein and therein by the Company and the Operating Partnership of their respective obligations and the consummation of the transactions herein and therein contemplated will not require, to such counsel's knowledge, any consent, approval, authorization or other order of any court, regulatory body, administrative agency or other governmental body (except such as may be required under the Act and the state securities, Blue Sky or real estate syndication laws in connection with the purchase and distribution of the Shares by the Underwriters) and did not and do not conflict with or constitute a breach or violation of or default under: (1) any contract, indenture, mortgage, loan agreement, note, lease, joint venture or partnership agreement or other instrument or agreement 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; (2) the certificate of limited partnership or partnership agreement, as the case may be, of the Operating Partnership and the Partnership Subsidiaries or the articles of incorporation or bylaws, as the case may be, of the Company and the Corporate Subsidiaries; (3) any applicable law, rule or administrative regulation of the United States or the State of Delaware; or (4) any order or administrative or court decree of which 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.

(vii) 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 Shares hereunder, except such as may be required under the Act or the by-laws, 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.

(viii) 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 and supporting schedule and other financial and statistical data included 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 Act and the Exchange Act.

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

(x) To such counsel's knowledge, there are no legal or governmental proceedings pending or threatened which are required to be disclosed in the Registration Statement or the Prospectus, other than those disclosed therein.

(xi) The information in the Prospectus Supplement under "Description of Series B Preferred Shares and Depositary Shares" and "Certain Federal Income Tax Considerations" and in the Prospectus under "Risk Factors," "Description of Debt Securities," "Description of Preferred Stock," "Description of Depositary Shares," "Description of Common Stock," "Restrictions on Transfers of Capital Stock" and "Federal Income Tax Considerations," 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 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 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 Shares have been approved for listing on the NYSE subject to official notice of issuance.

(xiv) The partnership agreement of each Partnership Subsidiary has been duly authorized, validly executed and delivered by each of the Company and the 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).

(xv) 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; and

(xvi) The documents filed pursuant to the Exchange Act and incorporated by reference in the Prospectus (other than the financial statements and supporting schedules therein and other financial data, as to which no opinion need be rendered), when they were filed with the Commission, complied as to form in all material respects with the requirements of the Exchange Act, as applicable, and the rules and regulations of the Commission thereunder.

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

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

In addition, Cahill Gordon & Reindel 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 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, or, if later, an Option 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, schedules and other financial and statistical data included in the Registration Statement or the Prospectus).

In giving its opinion, such counsel may rely (A) 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 Corporate Subsidiaries and the Partnership Subsidiaries, (B) as to matters of Maryland law, on the opinion of McGuire, Woods, Battle & Boothe, L.L.P., Baltimore, Maryland, which opinion shall be in form and substance reasonably satisfactory to counsel for the Underwriters, (C) as to matters of Illinois law, on the opinion of Barack Ferazzano Kirschbaum & Perlman, Chicago, Illinois, which opinion shall be in form and substance reasonably satisfactory to counsel for the Underwriters, and (D) 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 government officials or opinions of counsel in such jurisdictions. Counsel need express no opinion (i) as to the enforceability of forum selection clauses in the federal courts or (ii) with respect to the requirements of, or compliance with, any state securities, Blue Sky or real estate syndication laws.

(g) You shall have received on the Closing Date and, if later, an Option Closing Date, an opinion or opinions (satisfactory to you and counsel for the Underwriters), dated the Closing Date, and the Option Closing Date, as the case may be, of McGuire, Woods, Battle & Boothe, 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.

(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 Shares has 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. To the extent Maryland law

provides the basis for determination, each of the Underwriters is receiving good, valid and marketable title to the Shares, free and clear of all security interests, mortgages, pledges, liens, encumbrances, claims and equities if the Underwriters acquire such Shares in good faith and without notice of any such security interests, mortgages, pledges, liens, encumbrances, claims or equities. The terms of the Shares conform in all material respects to all statements and descriptions related thereto contained in the Registration Statement and Prospectus. The form of depositary receipt used to evidence the Shares are in due and proper form and comply in all material respects with all applicable legal requirements and with the requirements of the NYSE. The issuance of the Shares 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) This Agreement was duly and validly authorized and executed by the Company.

(vi) The execution and delivery of this Agreement and the Deposit Agreement and the performance of the obligations and the consummation of the transactions 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 Act or other securities laws) and did not and do not conflict with or constitute a breach or violation of or default under: (1) the charter or by-laws, as the case may be, of the Company; (2) any applicable Maryland law, rule or administrative regulation or any order or administrative or court decree of which 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.

(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 Shares hereunder, except such as may be required under Maryland securities, blue sky or real estate syndication laws.

(viii) The information in the Prospectus under "Description of Common Stock," "Certain Provisions of Maryland Law and the Company's Articles of Incorporation and Bylaws" and "Restrictions on Transfers of Capital 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 or such Corporate Subsidiary, as the case may be, is the general partner.

(h) You shall have received on the Closing date and, if later, an Option Closing Date, an opinion or opinions (satisfactory to you and counsel for the Underwriters), dated the Closing Date, or the Option Closing Date, as the case may be, of Barack Ferazzano Kirschbaum & Perlman, special Illinois counsel for the Company, to the effect that:

(i) To the knowledge of such counsel, none of the Company, FRA, the Operating Partnership, FIMC, the Mortgage Partnership, FIH, FII, FIHC and FIIC is in violation of or in default in connection with the performance or observance of any obligation, agreement, covenant or condition contained in any or all of (a) the documentation evidencing and/or securing (1) a certain unsecured term loan made available to the Operating Partnership by Union Bank of Switzerland, New York Branch, (2) a certain loan made available to Harrisburg, L.P. by ORIX USA, Inc., (3) a certain mortgage loan made available to the Financing Partnership by Nomura Asset Capital Corporation, (4) a certain mortgage loan made available to the Mortgage Partnership by Nomura Asset Capital Corporation, and (5) a certain revolving credit facility made available to the Operating Partnership by The First National Bank of Chicago and the Union Bank of Switzerland, New York Branch, (6) the assumption by the Operating Partnership of a certain mortgage loan from PFL Life Insurance Company made available to Fourth Brookville Associates Limited Partnership; (7) the assumption by the Operating Partnership of a certain loan from Monumental Life Insurance Company made available to Lincoln Center Associates Limited Partnership; (8) the origination of a certain mortgage loan made available to FII by Connecticut General Life Insurance Company ("CIGNA"); (9) the origination of a certain mortgage loan made available to the Operating Partnership by CIGNA; (10) the acquisition of property by the Operating Partnership subject to a certain mortgage loan from Smithkline Beecham Clinical Laboratories, Inc. made available to 290 Industrial Co., LLC; and (K) the acquisition of property by the Operating Partnership subject to a certain mortgage loan from Patomi Realty Co. made available to Lazarus Burman Associates (such documentation, collectively, the "Credit Documents") and (b) various pending agreements of purchase and sale into which FR Acquisitions, Inc. has entered into for the purchase of certain real properties (collectively, the "Pending Contracts"), 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 and the Deposit Agreement and the performance of the obligations and the consummation of the transaction 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) the Credit Documents and the Pending Contracts; (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 the Company, the Operating Partnership, FIMC, the Mortgage Partnership, FIH, FII, FIHC, or FIIC, 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 Prospectus Supplement under "Prospectus Supplement Summary - Recent Developments -Debt Financing", and in the 10-K under Item 2 "The Properties, - Mortgage Loans" (except for the 1994 Mortgage Loan) 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) You shall have received on the Closing Date and the Option Closing Date, as the case may be, an opinion, dated the Closing Date and the Option Closing Date, as the case may be, of Rogers & Wells, counsel for the Underwriters, as to the matters referred to in clause (i) (with respect to the Company only) of Section 8(g) and clauses (v) and (viii) of Section 8(f) and in addition, Rogers & Wells shall make statements similar to those contained in the second paragraph following clause (xviii) of Section 8(f) hereto and shall be entitled to rely on those persons described in the third paragraph following clause (xviii) Section 8(f) hereto with respect to the matters described therein.

(j) At the Closing Date, the Shares shall have the ratings accorded by the "nationally recognized statistical organizations," as defined by the Commission for purposes of Rule 436(g)(2) under the Act, as specified in Section 6(ac) hereto, and the Company shall have delivered to Smith Barney Inc. a letter, dated as of such date, from each such rating organization, or other evidence satisfactory to Smith Barney Inc., confirming that the Shares have such ratings. Since the date hereof, there shall not have occurred a downgrading in the rating assigned to the 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 Shares or any of the Company's securities or the Operating Partnership's other securities.

(k) On the date hereof, Coopers & Lybrand L.L.P. 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 and its Subsidiaries as required by the Act and with respect to the financial and other statistical and numerical information contained in the Registration Statement 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 and, as to the Additional Shares, at any Option Closing Date, Coopers & Lybrand L.L.P. 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 and the applicable Option Closing Date, as the case may be,

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 and the applicable Option Closing Date, as the case may be.

(l) At the Closing Date, the Shares shall have been approved for listing on the NYSE upon official notice of issuance.

(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 5 herein contained and 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 and, if later, at any applicable Option 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 Shares, 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 Company in connection with the issuance and sale of the Shares 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 Rogers & Wells, counsel for the Underwriters.

9. Effective Date of Agreement; Termination; Default by One or More Underwriters. This Agreement shall become effective upon the execution of this Agreement.

This Agreement may be terminated at any time prior to the Closing Date by you by written notice to the Company if any of the following has occurred: (i) since the respective dates as of which information is given in the Registration Statement and the Prospectus, there has been a Material Adverse Effect, (ii) any outbreak or escalation of hostilities or other national or international calamity or crisis or change in economic conditions or in the financial markets of the United States or elsewhere that, in your judgment, is material and adverse and would, in your judgment, make it impracticable to market the Shares on the terms and in the manner contemplated in the Prospectus or to enforce contents for the resale of the Shares, (iii) the suspension or material limitation of trading in securities on the NYSE or the American Stock Exchange or material limitation on prices for securities on either of such exchanges, (iv) the enactment, publication, decree or other promulgation of any federal or state statute, regulation, rule or order of any court or other governmental authority which in your opinion would result in a Material Adverse Effect, (v) the declaration of a banking moratorium by either federal or New York State authorities or (vi) the taking of any action by any federal, state or local government or agency in respect of its monetary or fiscal affairs which in your opinion has a material adverse effect on the financial markets in the United States.

If on the Closing Date or on an applicable Option Closing Date, as the case may be, any one or more of the Underwriters shall fail or refuse to purchase the Firm Shares or Additional Shares, as the case may be, which it or they have agreed to purchase hereunder on such date and the aggregate number of Firm Shares or Additional Shares, as the case may be, which such defaulting Underwriter or Underwriters, as the case may be, agreed but failed or refused to purchase is not more than one-tenth of the total number of Firm Shares or Additional Shares, as the case may be, to be purchased on such date by all Underwriters, each non-defaulting Underwriter shall be obligated severally, in the proportion which the number of Firm Shares set forth opposite its name in Schedule I bears to the total number of Firm Shares which all the non-defaulting Underwriters, have agreed to purchase, or in such other proportion as you may specify, to purchase the Firm Shares or Additional Shares, as the case may be, which such defaulting Underwriter or Underwriters, as the case may be, agreed but failed or refused to purchase on such date; provided that in no event shall the number of Firm Shares or Additional Shares, as the case may be, which any Underwriter has agreed to purchase pursuant to Section 2 hereof be increased pursuant to this Section 9 by an amount in excess of one-ninth of such number of Firm Shares or Additional Shares, as the case may be, without the written consent of such Underwriter. If on the Closing Date or on an applicable Option Closing Date, as the case may be, any Underwriter or Underwriters shall fail or refuse to purchase Firm Shares, or Additional Shares, as the case may be, and the aggregate number of Firm Shares or Additional Shares, as the case may be, with respect to which such default occurs is more than one-tenth of the aggregate number of Firm Shares or Additional Shares, as the case may be, to be purchased on such date by all Underwriters and arrangements satisfactory to you and the Company for purchase of such Shares are not made within 48 hours after such default, this Agreement will terminate without liability on the part of any non-defaulting Underwriter and the Company. In any such case which does not result in termination of this Agreement, either you or the Company shall have the right to postpone the Closing Date or the applicable Option Closing Date, as the case may be, but in no event for longer than seven days, in order that the required changes, if any, in the Registration Statement and the Prospectus or 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 any such Underwriter under this Agreement.

10. Information Furnished by the Underwriters. The names of the Underwriters set forth on the cover page, the stabilization legend on the inside front cover, and the statements in the chart and the third, sixth and seventh (with respect to the last sentence only) paragraphs under the caption "Underwriting" in the Prospectus, constitute the only information furnished by or on behalf of the Underwriters through you as such information is referred to in Section 7.

11. Miscellaneous. Notices given pursuant to any provision of this Agreement shall be addressed as follows: (a) if to the Company, to First Industrial Realty Trust, Inc., 150 North Wacker Drive, Suite 150, Chicago, Illinois 60606, Attention: Michael T. Tomasz, with a copy to Cahill Gordon & Reindel, 80 Pine Street, New York, New York 10005, Attention of Gerald S. Tanenbaum, Esq. and (b) if to you, c/o Smith Barney Inc., 388 Greenwich Street, New York, New York 10013, Attention: Manager, Investment Banking Division, with a copy to Rogers & Wells, 200 Park Avenue, New York, New York 10166, Attention of Robert E.

King, Jr., or in any case to such other address as the person to be notified may have requested in writing.

The provisions of Sections 5, 6 and 7 shall remain operative and in full force and effect, and will survive delivery of and payment for the Shares, regardless of (i) any investigation, or statement as to the results thereof, made by or on behalf of any Underwriter or by or on behalf of the Company, the officers or directors of the Company or any controlling person of the Company and (ii) acceptance of the Shares and payment for them hereunder.

In the event of termination of this Agreement, the provisions of Sections 5(k) and 7 shall remain operative and in full force and effect.

If this Agreement shall be terminated by the Underwriters because of any failure or refusal on the part of the Company or the Operating Partnership to comply with the terms or to fulfill any of the conditions of this Agreement, the Company and the Operating Partnership agree to reimburse the several Underwriters for all out-of-pocket expenses (including the fees and disbursements of counsel) reasonably incurred by them.

Except as otherwise provided, this Agreement has been and is made solely for the benefit of and shall be binding upon the Company, the Operating Partnership and the Underwriters, any controlling persons referred to herein and their respective successors and assigns, all as and to the extent provided in this Agreement, and no other person shall acquire or have any right under or by virtue of this Agreement. The term "successors and assigns" shall not include a purchaser of any of the Shares from any of the several Underwriters merely because of such purchase.

This Agreement shall be governed and construed in accordance with the laws of the State of New York applicable to contracts made and to be performed in New York.

This Agreement may be signed in various counterparts which together shall constitute one and the same instrument.

Please confirm that the foregoing correctly sets forth the agreement among the Company, the Operating Partnership, and the several Underwriters.

Very truly yours,

FIRST INDUSTRIAL REALTY TRUST, INC.

By: -----

Name:  
Title:

FIRST INDUSTRIAL, L.P.

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

By: -----

Name:  
Title:

SMITH BARNEY INC.  
DONALDSON, LUFKIN & JENRETTE  
SECURITIES CORPORATION  
As representatives of the  
several Underwriters listed  
on Schedule I hereto

By: SMITH BARNEY INC.

By: -----

Name:  
Title:

SCHEDULE I

Underwriters -----	Number of Firm Shares to be Purchased -----
Smith Barney Inc.....	1,435,000
Donaldson, Lufkin & Jenrette Securities Corporation.....	1,435,000
A.G. Edwards & Sons, Inc.....	70,000
Alex. Brown & Sons, Incorporated.....	70,000
Bear, Stearns & Co. Inc.....	70,000
Dain Bosworth Incorporated.....	70,000
Dillon, Read & Co. Inc.....	70,000
EVEREN Securities, Inc.....	70,000
Goldman, Sachs & Co.....	70,000
JP Morgan Securities Inc.....	70,000
Oppenheimer & Co., Inc.....	70,000
Prudential Securities Incorporated.....	70,000
The Robinson-Humphrey Company, Inc.....	70,000
Cowen & Company.....	20,000
Fahnestock & Co. Inc.....	20,000
First of Michigan Corporation.....	20,000
Gruntal & Co., Incorporated.....	20,000
J.C. Bradford & Co.....	20,000
Janney Montgomery Scott Inc.....	20,000
Kennedy Cabot & Company, Inc.....	20,000
Legg Mason Wood Walker, Incorporated.....	20,000
McDonald & Company Securities, Inc.....	20,000
McGinn, Smith & Co., Inc.....	20,000
Morgan, Keegan & Company, Inc.....	20,000
Piper Jaffray Inc.....	20,000
Principal Financial Securities, Inc.....	20,000
Rauscher Pierce Refsnes, Inc.....	20,000
Raymond James & Associates, Inc.....	20,000
Stephens Inc.....	20,000
Tucker Anthony Incorporated.....	20,000
U.S. Clearing Corp.....	20,000
	-----
Total.....	4,000,000 =====

SCHEDULE II

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

ENTITY: -----	JURISDICTION -----
First Industrial, L.P.	Alabama Georgia* Illinois* Indiana* Iowa Kansas Michigan Minnesota* Missouri New Jersey* New York* Ohio Pennsylvania Tennessee Wisconsin
First Industrial Realty Trust, Inc.	Alabama Georgia* Illinois* Indiana* Michigan* Minnesota* New Jersey* New York* Ohio
First Industrial Securities, L.P.	Illinois
Michigan Minnesota	Pennsylvania
First Industrial Securities Corporation Michigan	Illinois
First Industrial Pennsylvania Partnership, L.P.	Pennsylvania
First Industrial Pennsylvania Corporation	Pennsylvania
First Industrial Harrisburg, L.P.	Pennsylvania

First Industrial Harrisburg Corporation	Pennsylvania
First Industrial Financing Partnership, L.P.	Alabama Georgia* Illinois* Iowa Kansas Michigan* Minnesota* Missouri New Hampshire Pennsylvania Tennessee Texas Wisconsin
First Industrial Finance Corporation	Alabama
Georgia* Illinois* Michigan* Wisconsin	
First Industrial Management Corporation	Alabama Georgia Illinois Indiana Iowa Kansas Michigan Minnesota Missouri New Hampshire Ohio Pennsylvania Tennessee Texas Wisconsin
First Industrial (Atlanta) Management Corporation	Georgia
Illinois	



FR Acquisitions, Inc.	Georgia Illinois Indiana Michigan Minnesota Missouri Ohio Pennsylvania Tennessee Wisconsin
First Industrial Mortgage Partnership, L.P.	Georgia* Illinois* Michigan* Minnesota* Missouri Tennessee
First Industrial Mortgage Corporation Michigan	Illinois
First Industrial Indianapolis, L.P.	Indiana
First Industrial Indianapolis Corporation	None
First Industrial Development Services Group, L.P.	None
FI Development Services Corporation	None

- -----  
\*Denotes jurisdictions on which counsel is opining.

8 3/4% Series B Cumulative Preferred Stock  
(Liquidation Preference \$2,500 Per Share)

ARTICLES SUPPLEMENTARY

FIRST INDUSTRIAL REALTY TRUST, INC.

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Articles Supplementary of Board of Directors Classifying  
and Designating a Series of Preferred Stock as  
8 3/4% Series B Cumulative Preferred Stock  
and Fixing Distribution and  
Other Preferences and Rights of Such Series

-----

Dated as of May 13, 1997

FIRST INDUSTRIAL REALTY TRUST, INC.

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Articles Supplementary of Board of Directors Classifying  
and Designating a Series of Preferred Stock as  
8 3/4% Series B Cumulative Preferred Stock  
and Fixing Distribution and  
Other Preferences and Rights of Such Series

-----

First Industrial Realty Trust, Inc., a Maryland corporation, having its principal office in the State of Maryland in the City of Baltimore (the "Company"), hereby certifies to the State Department of Assessments and Taxation of Maryland that:

Pursuant to authority conferred upon the Board of Directors by the Charter and Bylaws of the Company, the Board of Directors on December 3, 1996 and March 4, 1997 adopted resolutions appointing certain members of the Board of Directors to a committee (the "Special Committee") with power to cause the Company to issue, among other things, a series of Preferred Stock and to determine the number of shares which shall constitute such series and the Dividend Rate (as defined herein) and other terms of such series. The Special Committee pursuant to a resolution dated May 9, 1997 (i) authorized the creation and issuance of up to 46,000 shares of Series B Cumulative Preferred Stock and (ii) determined the preferences, conversion and other rights, voting powers, restrictions, limitations as to dividends, qualifications, and terms and conditions of redemption of the shares of such series and the Dividend Rate (which rate shall be 8 3/4%) payable on such series. Such preferences, conversion and other rights, voting powers, restrictions, limitations as to dividends, qualifications, and terms and conditions of redemption, number of shares and Dividend Rate, as determined by such duly authorized committee, as applicable, are as follows:

Section 1. Number of Shares and Designation. This class of Preferred Stock shall be designated as 8 3/4% Series B Cumulative Preferred Stock (the "Series B Preferred Shares")

and the number of shares which shall constitute such series shall not be more than 46,000 shares, par value \$.01 per share, which number may be decreased (but not below the number thereof then outstanding) from time to time by the Board of Directors.

Section 2. Dividend Rights. (1) Dividends shall be payable in cash on the Series B Preferred Shares when, as and if declared by the Board of Directors, out of assets legally available therefor: (i) for the period (the "Initial Dividend Period") from the Deemed Original Issue Date (as defined below) to but excluding July 1, 1997, and (ii) for each quarterly dividend period thereafter (the Initial Dividend Period and each quarterly dividend period being hereinafter individually referred to as a "Dividend Period" and collectively referred to as "Dividend Periods"), which quarterly Dividend Periods shall commence on July 1, October 1, January 1, and April 1 in each year (each, a "Dividend Period Commencement Date"), commencing on July 1, 1997, and shall end on and include the day next preceding the next Dividend Period Commencement Date, at a rate per annum equal to 8 3/4% of the liquidation preference thereof (the "Dividend Rate"). Dividends on each Series B Preferred Share shall be cumulative from the Deemed Original Issue Date of such share and shall be payable, without interest thereon, when, as and if declared by the Board of Directors, on March 31, June 30, September 30, and December 31, of each year, commencing on June 30, 1997 or, in the case of Series B Preferred Shares with a Deemed Original Issue Date after June 30, 1997, the first such dividend payment date following such Deemed Original Issue Date; provided, that if any such day shall be a Saturday, Sunday, or a day on which banking institutions in the State of New York are authorized or obligated by law to close, or a day which is or is declared a national or a New York state holiday (any of the foregoing a "Non-Business Day"), then the payment date shall be the next succeeding day which is not a Non-Business Day. Each such dividend shall be paid to the holders of record of Series B Preferred Shares as they appear on the stock register of the Company on such record date, not more than 45 days nor less than 15 days preceding the payment date thereof, as shall be fixed by the Board of Directors. Dividends on account of arrears for any past Dividend Periods may be declared and paid at any time, without reference to any regular dividend payment date, to holders of record on such date, not more than 45 days nor less than 15 days preceding the payment date thereof, as may be fixed by the Board of Directors. After an amount equal to full cumulative dividends on this series, including for the then current Dividend Period, has been paid to holders of record of Series B Preferred Shares

entitled to receive dividends as set forth above by the Company, or such dividends have been declared and funds therefor set aside for payment, the holders of Series B Preferred Shares will not be entitled to any further dividends with respect to that Dividend Period.

"Deemed Original Issue Date" means (a) in the case of any share which is part of the first issuance of Series B Preferred Shares or part of a subsequent issuance of Series B Preferred Shares prior to July 1, 1997, the date of such first issuance and (b) in the case of any share which is part of a subsequent issuance of Series B Preferred Shares on or after July 1, 1997, the later of (x) July 1, 1997 and (y) the latest Dividend Period Commencement Date which precedes the date of issuance of such share and which succeeds the last Dividend Period for which full cumulative dividends have been paid; provided that, in the case of any share which is part of a subsequent issuance on or after July 1, 1997, the date of issuance of which falls between (i) the record date for dividends payable on the first succeeding dividend payment date and (ii) such dividend payment date, the "Deemed Original Issue Date" means the date of the Dividend Period Commencement Date that immediately follows the date of issuance.

(2) Dividends payable on Series B Preferred Shares for any period greater or less than a full Dividend Period, including the Initial Dividend Period, shall be computed on the basis of a 360-day year consisting of twelve 30-day months. Dividends payable on Series B Preferred Shares for each full Dividend Period shall be computed by dividing the Dividend Rate by four.

(3) When dividends are not paid in full upon the Series B Preferred Shares and any other series of preferred stock of the Company ranking on a parity therewith as to dividends, (or, in the case of the Company's Series A Preferred Shares, payments in lieu thereof are not made under that certain Guarantee and Payment Agreement dated November 17, 1995 between First Industrial Securities, L.P., a Delaware limited partnership and First Industrial Securities Corporation for the benefit of American National Bank and Trust Company of Chicago for the holders of the Series A Preferred Shares (the "Guarantee")), all dividends declared upon the Series B Preferred Shares and any other series of preferred stock of the Company ranking on a parity therewith as to dividends shall be declared pro rata so that the amount of dividends declared per share on the Series B Preferred Shares and such other series of preferred stock shall in all cases bear to each other that same

ratio that the accumulated dividends per share on the Series B Preferred Shares and such other series of preferred stock (less, in the case of the Series A Preferred Shares, payments under the Guarantee in lieu of such dividends) bear to each other. Except as provided in the preceding sentence, unless an amount equal to full cumulative dividends on the Series B Preferred Shares has been paid to holders of record of Series B Preferred Shares entitled to receive dividends as set forth above by the Company for all past Dividend Periods, no dividends (other than in shares of the Company's common stock, par value \$.01 per share (together with any other shares of capital stock of the Company into which such shares shall be reclassified or changed "Common Stock"), or other shares of capital stock of the Company ranking junior to the Series B Preferred Shares as to dividends and upon liquidation) shall be declared or paid or set aside for payment nor (except pursuant to the Guarantee with respect to the Series A Preferred Shares) shall any other distribution be made upon the Common Stock or any other Shares of capital stock of the Company ranking junior to or on a parity with the Series B Preferred Shares as to dividends or upon liquidation. Unless an amount equal to full cumulative dividends on the Series B Preferred Shares has been paid to holders of record of Series B Preferred Shares entitled to receive dividends as set forth above by the Company for all past Dividend Periods, no Common Stock or any other Shares of capital stock of the Company ranking junior to or on a parity with the Series B Preferred Shares as to dividends or upon liquidation shall be redeemed, purchased, or otherwise acquired for any consideration (or any moneys be paid to or made available for a sinking fund for the redemption of any shares of any such stock) by the Company or any subsidiary of the Company, except by conversion into or exchange for shares of capital stock of the Company ranking junior to the Series B Preferred Shares as to dividends and upon liquidation and except pursuant to the Guarantee with respect to the Series A Preferred Shares.

Section 3. Liquidation. (1) In the event of any voluntary or involuntary liquidation, dissolution, or winding up of the Company, the holders of Series B Preferred Shares are entitled to receive out of the assets of the Company available for distribution to stockholders, before any distribution of assets is made to holders of Common Stock or any other class or series of shares ranking junior to the Series B Preferred Shares upon liquidation, liquidating distributions in the amount of the stated value of \$2,500 per share, plus all accumulated and unpaid dividends (whether or not earned or declared) for the then current and all past Dividend Periods. If, upon any voluntary or involuntary liquidation, dissolution,

or winding up of the Company, the amounts payable with respect to the Series B Preferred Shares and any other shares of the Company ranking as to any such distribution on a parity with the Series B Preferred Shares are not paid in full, the holders of Series B Preferred Shares and of such other shares will share ratably in any such distribution of assets of the Company in proportion to the full respective preferential amounts to which they are entitled. After payment of the full amount of the liquidating distribution to which they are entitled, the holders of Series B Preferred Shares will not be entitled to any further participation in any distribution of assets by the Company.

(2) Written notice of any such liquidation, dissolution or winding up of the Company, stating the payment date or dates when, and the place or places where, the amounts distributable in such circumstances shall be payable, shall be given by first class mail, postage prepaid, not less than 30 nor more than 60 days prior to the payment date stated therein, to each record holder of the Series B Preferred Shares at the respective addresses of such holders as the same shall appear on the stock transfer records of the Company.

(3) For purposes of liquidation rights, a consolidation or merger of the Company with or into any other corporation or corporations or a sale of all or substantially all of the assets of the Company shall be deemed not to be a liquidation, dissolution or winding up of the Company

Section 4. Redemption. (1) Except as provided in clause (9) below, the Series B Preferred Shares are not redeemable prior to May 14, 2002. On and after such date, the Series B Preferred Shares are redeemable at the option of the Company, by resolution of the Board of Directors, in whole or in part, from time to time upon not less than 30 nor more than 60 days' notice, at a cash redemption price of the stated value of \$2,500 per share, plus all accumulated and unpaid dividends (whether or not earned or declared) to the date of redemption.

(2) If fewer than all of the outstanding Series B Preferred Shares are to be redeemed, the number of shares to be redeemed will be determined by the Board of Directors and such shares shall be redeemed pro rata from the holders of record of such shares in proportion to the number of such shares held by such holders (with adjustments to avoid redemption of fractional shares) or by lot in a manner determined by the Board of Directors.

(3) Notwithstanding the foregoing, if an amount equal to full dividends for all past Dividend Periods on the Series B Preferred Shares has not been paid to holders of record of Series B Preferred Shares entitled to receive dividends as set forth above by the Company, no Series B Preferred Shares shall be redeemed, except pursuant to Article IX of the Charter, unless all outstanding Series B Preferred Shares are simultaneously redeemed, and the Company shall not purchase or otherwise acquire, directly or indirectly, any Series B Preferred Shares; provided, however, that the foregoing shall not prevent the purchase or acquisition of Series B Preferred Shares pursuant to a purchase or exchange offer provided such offer is made on the same terms to all holders of Series B Preferred Shares.

(4) Immediately prior to any redemption of Series B Preferred Shares, the Company shall pay, in cash, any accumulated and unpaid dividends through the redemption date, unless a redemption date falls after a dividend payment record date and prior to the corresponding dividend payment date, in which case each holder of Series B Preferred Shares at the close of business on such dividend payment record date shall be entitled to the dividend payable on such shares on the corresponding dividend payment date notwithstanding the redemption of such shares before such dividend payment date. Except as expressly provided hereinabove, the Company shall make no payment or allowance for unpaid dividends, whether or not in arrears, on Series B Preferred Shares called for redemption.

(5) Notice of redemption shall be given by publication in a newspaper of general circulation in The City of New York, such publication to be made once a week for two successive weeks, commencing not less than 30 nor more than 60 days prior to the date fixed for redemption thereof. A similar notice will be mailed by the Company by first class mail, postage prepaid, to each record holder of the Series B Preferred Shares to be redeemed, not less than 30 nor more than 60 days prior to such redemption date, to the respective addresses of such holders as the same shall appear on the stock transfer records of the Company. Each notice shall state: (i) the redemption date; (ii) the number of Series B Preferred Shares to be redeemed; (iii) the redemption price; (iv) the place or places where certificates for such shares are to be surrendered for payment of the redemption price; and (v) that dividends on the shares to be redeemed will cease to accumulate on such redemption date. If fewer than all the Series B Preferred Shares held by any holder are to be redeemed, the notice mailed to

such holder shall also specify the number of Series B Preferred Shares to be redeemed from such holder.

(6) In order to facilitate the redemption of Series B Preferred Shares, the Board of Directors may fix a record date for the determination of the shares to be redeemed, such record date to be not less than 30 nor more than 60 days prior to the date fixed for such redemption.

(7) Notice having been given as provided above, from and after the date fixed for the redemption of Series B Preferred Shares by the Company (unless the Company shall fail to make available the money necessary to effect such redemption), the holders of shares selected for redemption shall cease to be stockholders with respect to such shares and shall have no interest in or claim against the Company by virtue thereof and shall have no voting or other rights with respect to such shares, except the right to receive the moneys payable upon such redemption from the Company, less any required tax withholding amount, without interest thereon, upon surrender (and endorsement or assignment of transfer, if required by the Company and so stated in the notice) of their certificates, and the shares represented thereby shall no longer be deemed to be outstanding. If fewer than all the shares represented by a certificate are redeemed, a new certificate shall be issued, without cost to the holder thereof, representing the unredeemed shares. The Company may, at its option, at any time after a notice of redemption has been given, deposit the redemption price for the Series B Preferred Shares designated for redemption and not yet redeemed, plus any accumulated and unpaid dividends thereon to the date fixed for redemption, with the transfer agent or agents for the Series B Preferred Shares, as a trust fund for the benefit of the holders of the Series B Preferred Shares designated for redemption, together with irrevocable instructions and authority to such transfer agent or agents that such funds be delivered upon redemption of such shares and to pay, on and after the date fixed for redemption or prior thereto, the redemption price of the shares to their respective holders upon the surrender of their share certificates. From and after the making of such deposit, the holders of the shares designated for redemption shall cease to be stockholders with respect to such shares and shall have no interest in or claims against the Company by virtue thereof and shall have no voting or other rights with respect to such shares, except the right to receive from such trust fund the moneys payable upon such redemption, without interest thereon, upon surrender (and endorsement, if required by the Company) of their certificates, and the shares represented thereby shall no



longer be deemed to be outstanding. Any balance of such moneys remaining unclaimed at the end of the five-year period commencing on the date fixed for redemption shall be repaid to the Company upon its request expressed in a resolution of its Board of Directors.

(8) Any Series B Preferred Shares that shall at any time have been redeemed shall, after such redemption, have the status of authorized but unissued preferred stock, without designation as to series until such shares are once more designated as part of a particular series by the Board of Directors.

(9) The Series B Preferred Shares are subject to the provisions of Article IX of the Charter, including, without limitation, the provisions for the redemption of Excess Stock (as defined in such Article). Notwithstanding the provisions of Article IX of the Charter, Series B Preferred Shares which have been exchanged pursuant to such Article for Excess Stock may be redeemed, in whole or in part, and, if in part, pro rata from the holders of record of such shares in proportion to the number of such shares held by such holders (with adjustments to avoid redemption of fractional shares) or by lot in a manner determined by the Board of Directors, at any time when outstanding Series B Preferred Shares are being redeemed.

Section 5. Voting Rights. The Series B Preferred Shares shall not have any voting powers either general or special, except as required by law and except that:

(1) If and whenever full cumulative dividends on the Series B Preferred Shares, or any other series of preferred stock of the Company ranking on a parity with the Series B Preferred Shares as to dividends or upon liquidation (any such series, a "Parity Preferred Series"), for six quarterly dividend payment periods, whether or not consecutive, are in arrears and unpaid, (and, if such an arrearage exists with respect to Series A Preferred Shares, payment has not been made in the amount of such arrearages pursuant to the Guarantee) (such failure to pay by the Company, a "Dividend Default"), the holders of all outstanding Series B Preferred Shares and any Parity Preferred Series, voting as a single class without regard to series, will be entitled to elect two Directors until all dividends in arrears and unpaid on the Series B Preferred Shares and any Parity Preferred Series have been paid (either directly or, in the case of the Series A Preferred Shares, pursuant to the Guarantee) or declared and funds therefor set apart for payment. At any time when such right to elect Directors separately as a class shall have so vested, the Company may, and

upon the written request of the holders of record of not less than 20% of the total number of Series B Preferred Shares and shares of any Parity Preferred Series of the Company then outstanding shall, call a special meeting of stockholders for the election of such Directors. In the case of such a written request, such special meeting shall be held within 90 days after the delivery of such request and, in either case, at the place and upon the notice provided by law and in the Bylaws of the Company, provided that the Company shall not be required to call such a special meeting if such request is received less than 120 days before the date fixed for the next ensuing Annual Meeting of Stockholders of the Company and the holders of all outstanding Series B Preferred Shares and shares of any Parity Preferred Series are afforded the opportunity to elect such Directors (or fill any vacancy) at such Annual Meeting of Stockholders. Directors elected as aforesaid shall serve until the next Annual Meeting of Stockholders of the Company or until their respective successors shall be elected and qualified, or, if sooner, until an amount equal to all dividends in arrears and unpaid have been paid (either directly or pursuant to the Guarantee) or declared and funds therefor set apart for payment. If, prior to the end of the term of any Director elected as aforesaid, a vacancy in the office of such Director shall occur during the continuance of a Dividend Default by reason of death, resignation, or disability, such vacancy shall be filled for the unexpired term by the appointment of a new Director for the unexpired term of such former Director, such appointment to be made by the remaining Director or Directors elected as aforesaid.

(2) The affirmative vote or consent of the holders of at least two-thirds of the outstanding Series B Preferred Shares and any Parity Preferred Series, voting as a single class without regard to series, will be required to issue, authorize or increase the authorized amount of any class or series of shares ranking prior to the Series B Preferred Shares and shares of each Parity Preferred Series as to dividends or upon liquidation or to issue or authorize any obligation or security convertible into or evidencing a right to purchase any such security. Subject to the preceding sentence, the affirmative vote or consent of the holders of at least two-thirds of the outstanding Series B Preferred Shares, voting separately as a class, will be required to amend or repeal any provision of, or add any provision to, the Charter if such action would materially and adversely alter or change the powers, preferences, privileges or rights of the Series B Preferred Shares.

(3) Nothing herein shall be taken to require a class vote or consent in connection with the authorization, designation, increase or issuance of shares of any class or series (including additional preferred stock of any series) that rank junior to or on a parity with the Series B Preferred Shares as to dividends and liquidation rights or in connection with the authorization, designation, increase or issuance of any bonds, mortgages, debentures or other debt obligations of the Company.

Section 6. Conversion. The Series B Preferred Shares are not convertible into shares of any other class or series of the capital stock of the Company.



IN WITNESS WHEREOF, the Company has caused these Articles Supplementary to be signed in its name and on its behalf and attested to by the undersigned on this 13th day of May, 1997 and the undersigned acknowledges under the penalties of perjury that these Articles Supplementary are the corporate act of said Company and that to the best of his knowledge, information and belief, the matters and facts set forth herein are true in all material respects.

FIRST INDUSTRIAL REALTY TRUST, INC.

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

Attest:

-----  
Name:  
Title:

FIRST INDUSTRIAL REALTY TRUST, INC.,  
FIRST CHICAGO TRUST COMPANY OF NEW YORK,  
AS DEPOSITARY,

AND

THE HOLDERS FROM TIME TO TIME OF  
THE DEPOSITARY RECEIPTS DESCRIBED HEREIN  
RELATING TO SERIES B CUMULATIVE PREFERRED STOCK

DEPOSIT AGREEMENT

Dated as of May 14, 1997

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DEFINITIONS

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DEPOSIT AGREEMENT, dated as of May 14, 1997, among FIRST INDUSTRIAL REALTY TRUST, INC., a Maryland corporation (the "Company"), FIRST CHICAGO TRUST COMPANY OF NEW YORK, a national banking association (the "Depository"), and the holders from time to time of the Receipts described herein.

WHEREAS, it is desired to provide, as hereinafter set forth in this Deposit Agreement, for the deposit of shares of Series B Cumulative Preferred Stock of the Company with the Depository for the purposes set forth in this Deposit Agreement and for the issuance hereunder of Receipts evidencing Depository Shares in respect of the Stock so deposited; and

WHEREAS, the Receipts are to be substantially in the form of Exhibit A annexed hereto, with appropriate insertions, modifications and omissions, as hereinafter provided in this Deposit Agreement;

NOW, THEREFORE, in consideration of the promises contained herein, the receipt and sufficiency of which is hereby acknowledged, the parties hereto hereby agree as follows:

#### ARTICLE I

##### DEFINITIONS

The following definitions shall, for all purposes, unless otherwise indicated, apply to the respective terms used in this Deposit Agreement:

"Articles Supplementary" shall mean the Articles Supplementary filed with the Secretary of State of the State of Maryland establishing the Stock as a series of preferred stock of the Company.

"Deposit Agreement" shall mean this Deposit Agreement, as amended or supplemented from time to time.

"Depository" shall mean First Chicago Trust Company of New York and any successor as Depository hereunder.

"Depository Shares" shall mean Depository Shares, each representing 1/100 of a share of Stock and evidenced by a Receipt.

"Depository's Agent" shall mean an agent appointed by the Depository pursuant to Section 5.1 and shall include the Registrar if such Registrar is not the Depository.

"Depository's Office", shall mean any office of the Depository at which at any particular time its depository receipt business shall be administered.

"Excess Stock" shall mean Excess Stock as defined in Section 7.4 of the Company's Amended and Restated Articles of Incorporation.

"Receipt" shall mean one of the Depository Receipts, substantially in the form set forth as Exhibit A hereto, issued hereunder, whether in definitive or temporary form and evidencing the number of Depository Shares held of record by the record holder of such Depository Shares. If the context so requires, the term "Receipt" shall be deemed to include the DTC Receipt (as defined in Section 2.1 hereof).

"record holder" or "holder" as applied to a Receipt shall mean the person in whose name a Receipt is registered on the books of the Depository maintained for such purpose.

"Registrar" shall mean the Depository or such other bank or trust company which shall be appointed to register ownership and transfers of Receipts as herein provided.-

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

"Stock" shall mean shares of the Company's 8 3/4% Series B Cumulative Preferred Stock, \$.01 par value per share.

## ARTICLE II

### FORM OF RECEIPTS, DEPOSIT OF STOCK, EXECUTION AND DELIVERY, TRANSFER, SURRENDER AND REDEMPTION OF RECEIPTS

Section 2.1. Form and Transfer of Receipts. The Company and the Depository shall make application to The Depository Trust Company ("DTC") for acceptance of all or a portion of the Receipts for its book-entry settlement system. The Company hereby appoints the Depository acting through any authorized officer thereof as its attorney-in-fact, with full power to delegate, for purposes of executing any agreements, certifications or other instruments or documents necessary or desirable in order to effect the acceptance of such Receipts for DTC eligibility. So long as the Receipts are eligible for book-entry settlement with DTC, unless otherwise required by law, all Depository Shares to be traded on the New York Stock Exchange with book-entry settlement through DTC shall be represented by a single receipt (the "DTC Receipt"),

which shall be deposited with DTC (or its designee) evidencing all such Depositary Shares and registered in the name of the nominee of DTC (initially expected to be Cede & Co.). First Chicago Trust Company of New York or such other entity as is agreed to by DTC may hold the DTC Receipt as custodian for DTC. Ownership of beneficial interests in the DTC Receipt shall be shown on, and the transfer of such ownership shall be effected through, records maintained by (i) DTC or its nominee for such DTC Receipt, or (ii) institutions that have accounts with DTC.

If DTC subsequently ceases to make its book-entry settlement system available for the Receipts, the Company may instruct the Depositary regarding making other arrangements for book-entry settlement. In the event that the Receipts are not eligible for, or it is no longer desirable to have the Receipts available in, book-entry form, the Depositary shall provide written instructions to DTC to deliver to the Depositary for cancellation the DTC Receipt, and the Company shall instruct the Depositary to deliver to the beneficial owners of the Depositary Shares previously evidenced by the DTC definitive Receipts in physical form evidencing such Depositary Shares. Such definitive receipts shall be in substantially the form annexed hereto as Annex A, with appropriate insertions, modifications and omissions, as hereafter provided.

The beneficial owners of Depositary Shares shall, except as stated above with respect to Depositary Shares in book-entry form represented by the DTC Receipt, be entitled to receive Receipts in physical, certificated form as herein provided.

Definitive Receipts shall be engraved or printed or lithographed on steel-engraved borders, with appropriate insertions, modifications and omissions, as hereinafter provided, if and to the extent required by any securities exchange on which the Receipts are listed. The DTC Receipt shall bear such legend or legends as may be required by DTC in order for it to accept the Depositary Shares for its book-entry settlement system. Pending the preparation of definitive Receipts or if definitive Receipts are not required by any securities exchange on which the Receipts are listed, the Depositary, upon the written order of the Company, delivered in compliance with Section 2.2, shall execute and deliver temporary Receipts which are printed, lithographed, typewritten, mimeographed or otherwise substantially of the tenor of the definitive Receipts in lieu of which they are issued and with such appropriate insertions, omissions, substitutions and other variations as the persons executing such Receipts may determine, as evidenced by their execution of such Receipts. If temporary Receipts are issued, the Company and the Depositary will cause de-

definitive Receipts to be prepared without unreasonable delay. After the preparation of definitive Receipts, the temporary Receipts shall be exchangeable for definitive Receipts upon surrender of the temporary Receipts at the Depository's Office or at such other place or places as the Depository shall determine, without charge to the holder. Upon surrender for cancellation of any one or more temporary Receipts, the Depository shall execute and deliver in exchange therefor definitive Receipts representing the same number of Depository Shares as represented by the surrendered temporary Receipt or Receipts. Such exchange shall be made at the Company's expense and without any charge to the holder therefor. Until so exchanged, the temporary Receipts shall in all respects be entitled to the same benefits under this Agreement, and with respect to the Stock, as definitive Receipts.

Receipts shall be executed by the Depository by the manual and/or facsimile signature of a duly authorized officer of the Depository. No Receipt shall be entitled to any benefits under this Deposit Agreement or be valid or obligatory for any purpose unless it shall have been executed in accordance with the foregoing sentence. The Depository shall record on its books each Receipt so signed and delivered as hereinafter provided.

Receipts shall be in denominations of any number of whole Depository Shares. The Company shall deliver to the Depository from time to time such quantities of Receipts as the Depository may request to enable the Depository to perform its obligations under this Deposit Agreement.

Receipts may be endorsed with or have incorporated in the text thereof such legends or recitals or changes not inconsistent with the provisions of this Deposit Agreement as may be required by the Depository or required to comply with any applicable law or any regulation thereunder or with the rules and regulations of any securities exchange upon which the Stock, the Depository Shares or the Receipts may be listed or to conform with any usage with respect thereto, or to indicate any special limitations or restrictions to which any particular Receipts are subject.

Title to Depository Shares evidenced by a Receipt which is properly endorsed or accompanied by a properly executed instrument of transfer shall be transferable by delivery with the same effect as in the case of a negotiable instrument; provided, however, that until transfer of a Receipt shall be registered on the books of the Depository as provided in Section 2.3, the Depository may, notwithstanding any notice to the contrary, treat the record holder thereof at such time as the absolute owner thereof for the purpose of determining the person entitled to distributions of

dividends or other distributions or to any notice provided for in this Deposit Agreement and for all other purposes.

Section 2.2. Deposit of Stock; Execution and Delivery of Receipts in Respect Thereof. Subject to the terms and conditions of this Deposit Agreement, the Company may from time to time deposit shares of Stock under this Deposit Agreement by delivery to the Depositary of a certificate or certificates for the Stock to be deposited, properly endorsed or accompanied, if required by the Depositary, by a duly executed instrument of transfer or endorsement, in form satisfactory to the Depositary, together with all such certifications as may be required by the Depositary in accordance with the provisions of this Deposit Agreement, and together with a written order of the Company or such holder, as the case may be, directing the Depositary to execute and deliver to, or upon the written order of, the person or persons stated in such order a Receipt or Receipts for the number of Depositary Shares representing such deposited Stock.

Deposited Stock shall be held by the Depositary at the Depositary's Office or at such other place or places as the Depositary shall determine.

Upon receipt by the Depositary of a certificate or certificates for Stock deposited in accordance with the provisions of this Section, together with the other documents required as above specified, and upon recordation of the Stock on the books of the Company in the name of the Depositary or its nominee, the Depositary, subject to the terms and conditions of this Deposit Agreement, shall execute and deliver, to or upon the order of the person or persons named in the written order delivered to the Depositary referred to in the first paragraph of this Section, a Receipt or Receipts for the whole number of Depositary Shares representing, in the aggregate, the Stock so deposited and registered in such name or names as may be requested by such person or persons. The Depositary shall execute and deliver such Receipt or Receipts at the Depositary's Office or such other offices, if any, as the Depositary may designate. Delivery at other offices shall be at the risk and expense of the person requesting such delivery.

Section 2.3. Registration of Transfer of Receipts. Subject to the terms and conditions of this Deposit Agreement, the Depositary shall register on its books from time to time transfers of Receipts upon any surrender thereof by the holder in person or by a duly authorized attorney, properly endorsed or accompanied by a properly executed instrument of transfer. Thereupon, the Depositary shall execute a new Receipt or Receipts evidencing the same aggregate number of Depositary Shares as those evidenced by

the Receipt or Receipts surrendered and deliver such new Receipt or Receipts to or upon the order of the person entitled thereto.

SECTION 2.4. Split-ups and Combinations of Receipts; Surrender of Receipts and Withdrawal of Stock . Upon surrender of a Receipt or Receipts at the Depository's Office or at such other offices as it may designate for the purpose of effecting a split-up or combination of such Receipt or Receipts, and subject to the terms and conditions of this Deposit Agreement, the Depository shall execute and deliver a new Receipt or Receipts in the authorized denomination or denominations requested, evidencing the aggregate number of Depository Shares evidenced by the Receipt or Receipts surrendered; provided, however, that the Depository shall not issue any Receipt evidencing a fractional Depository Share.

Any holder of a Receipt or Receipts representing any number of whole shares of Stock may (unless the related Depository Shares have previously been called for redemption) withdraw the Stock and all money and other property, if any, represented thereby by surrendering such Receipt or Receipts at the Depository's Office or at such other offices as the Depository may designate for such withdrawals and paying any unpaid amount due the Depository. If such holder's Depository Shares are being held by DTC or its nominee pursuant to Section 2.1, such holder shall request withdrawal from the book-entry system of Receipts representing any number of whole shares. Thereafter, without unreasonable delay, the Depository shall deliver to such holder or to the person or persons designated by such holder as hereinafter provided the number of whole shares of Stock and all money and other property, if any, represented by the Receipt or Receipts so surrendered for withdrawal, but holders of such whole shares of Stock will not thereafter be entitled to deposit such Stock hereunder or to receive Depository Shares therefor. If a Receipt delivered by the holder to the Depository in connection with such withdrawal shall evidence a number of Depository Shares in excess of the number of Depository Shares representing the number of whole shares of Stock to be so withdrawn, the Depository shall at the same time, in addition to such number of whole shares of Stock and such money and other property, if any, to be so withdrawn, deliver to such holder, or upon his order, a new Receipt evidencing such excess number of Depository Shares; provided, however, that the Depository shall not issue any Receipt evidencing a fractional Depository Share.

Delivery of the Stock and money and other property being withdrawn may be made by the delivery of such certificates, documents of title and other instruments as the Depository may deem

appropriate, which, if required by the Depository, shall be properly endorsed or accompanied by proper instruments of transfer.

If the Stock and the money and other property being withdrawn are to be delivered to a person or persons other than the record holder of the Receipt or Receipts being surrendered for withdrawal of Stock, such holder shall execute and deliver to the Depository a written order so directing the Depository and the Depository may require that the Receipt or Receipts surrendered by such holder for withdrawal of such shares of Stock be properly endorsed in blank or accompanied by a properly executed instrument of transfer in blank.

Delivery of the Stock and the money and other property, if any, represented by Receipts surrendered for withdrawal shall be made by the Depository at the Depository's Office, except that, at the request, risk and expense of the holder surrendering such Receipt or Receipts and for the account of the holder thereof, such delivery may be made at such other place as may be designated by such holder.

Section 2.5. Limitations on Execution and Delivery, Transfer, Surrender and Exchange of Receipts. As a condition precedent to the execution and delivery, registration of transfer, split-up, its combination, surrender or exchange of any Receipt, the Depository, any of the Depository's Agents or the Company may require payment to it of a sum sufficient for the payment (or, in the event that the Depository or the Company shall have made such payment, the reimbursement to it) of any charges or expenses payable by the holder of a Receipt pursuant to Sections 3.2 and 5.7, may require the production of evidence satisfactory to it as to the identity and genuineness of any signature, and may also require compliance with such regulations, if any, as the Depository or the Company may establish consistent with the provisions of this Deposit Agreement.

The deposit of Stock may be refused, the delivery of Receipts against Stock may be suspended, the registration of transfer of Receipts may be refused and the registration of transfer, surrender or exchange of outstanding Receipts may be suspended (i) during any period when the register of stockholders of the Company is closed, or (ii) if any such action is deemed necessary or advisable by the Depository, any of the Depository's Agents or the Company at any time or from time to time because of any requirement of law or of any government or governmental body or commission or under any provision of this Deposit Agreement.

Section 2.6. Lost Receipts, etc. In case any receipt shall be mutilated, destroyed, lost or stolen, the Depositary in its reasonable discretion may execute and deliver a Receipt of like form and tenor in exchange and substitution for such mutilated Receipt, or in lieu of and in substitution for such destroyed, lost or stolen Receipt, upon (i) the filing by the holder thereof with the Depositary of evidence reasonably satisfactory to the Depositary of such destruction or loss or theft of such Receipt, of the authenticity thereof and of his or her ownership thereof, (ii) the furnishing of the Depositary with indemnification reasonably satisfactory to it and the Company and (iii) the payment of any reasonable expense (including reasonable fees, charges and expenses of the Depositary) in connection with such execution and delivery.

Section 2.7. Cancellation and Destruction of Surrendered Receipts. All Receipts surrendered to the Depositary or any Depositary's Agent shall be cancelled by the Depositary. Except as prohibited by applicable law or regulation, the Company is authorized to destroy all Receipts so cancelled.

Section 2.8. Redemption of Stock. Whenever the Company shall be permitted and shall elect to redeem shares of Stock in accordance with the provisions of the Company's Articles of Incorporation or Articles Supplementary, it shall (unless otherwise agreed to in writing with the Depositary) give or cause to be given to the Depositary not less than 30 days notice of the date of such proposed redemption or exchange of Stock and of the number of such shares held by the Depositary to be so redeemed and the applicable redemption price, as set forth in the Articles Supplementary, which notice shall be accompanied by a certificate from the Company stating that such redemption of Stock is in accordance with the provisions of the Company's Articles of Incorporation or Articles Supplementary. Notice of redemption of Stock will also be given by the Company by publication in a newspaper of general circulation in the City of New York, such publication to be made once a week for two successive weeks commencing not less than 30 nor more than 60 days prior to the redemption date, and the Depositary will publish a notice of redemption of the Depositary Shares containing the same type of information and in the same manner as the Company's notice of redemption. On the date of such redemption, provided that the Company shall then have paid or caused to be paid in full to the Depositary the redemption price of the Stock to be redeemed, plus an amount equal to any accrued and unpaid dividends thereon to the date fixed for redemption, in accordance with the provisions of the Articles Supplementary, the Depositary shall redeem the number of Depositary Shares representing such Stock. The Depositary shall mail notice of the Company's



redemption of Stock and the proposed simultaneous redemption of the number of Depositary Shares representing the Stock to be redeemed by first-class mail, postage prepaid, not less than 30 and not more than 60 days prior to the date fixed for redemption of such Stock and Depositary Shares (the "Redemption Date") to the record holders of the Receipts evidencing the Depositary Shares to be so redeemed, at the address of such holders as they appear on the records of the Depositary; but neither failure to mail any such notice of redemption of Depositary Shares to one or more such holders nor any defect in any notice of redemption of Depositary Shares to one or more such holders shall affect the sufficiency of the proceedings for redemption as to the other holders. The Company will provide the Depositary with the information necessary for the Depositary to prepare such notice and each such notice shall state: (i) the Redemption Date; (ii) the number of Depositary Shares to be redeemed and, if fewer than all the Depositary Shares held by any such holder are to be redeemed, the number of such Depositary Shares held by such holder to be so redeemed; (iii) the redemption price per Depositary Share; (iv) the place or places where Receipts evidencing Depositary Shares are to be surrendered for payment of the redemption price; and (v) that dividends in respect of the Stock represented by the Depositary Shares to be redeemed will cease to accrue on such Redemption Date. In case fewer than all the outstanding Depositary Shares are to be redeemed, the Depositary Shares to be so redeemed shall be determined pro rata or by lot in a manner determined by the Board of Directors.

Notice having been mailed by the Depositary as aforesaid, from and after the Redemption Date (unless the Company shall have failed to provide the funds necessary to redeem the Stock evidenced by the Depositary Shares called for redemption) (i) dividends on the shares of Stock so called for redemption shall cease to accrue from and after such date, (ii) the Depositary Shares being redeemed from such proceeds shall be deemed no longer to be outstanding, (iii) all rights of the holders of Receipts evidencing such Depositary Shares (except the right to receive the redemption price) shall, to the extent of such Depositary Shares, cease and terminate, and (iv) upon surrender in accordance with such redemption; notice of the Receipts evidencing any such Depositary Shares called for redemption (properly endorsed or assigned for transfer, if the Depositary or applicable law shall so require), such Depositary Shares shall be redeemed by the Depositary at a redemption price per Depositary Share equal to the same fraction of the redemption price per share paid with respect to the shares of Stock as the fraction each Depositary Share represents of a share of Stock plus the same fraction of all money and other property, if any, represented by such Depositary Shares, in-

cluding all amounts paid by the Company in respect of dividends which on the Redemption Date have accumulated on the shares of Stock to be so redeemed and have not theretofore been paid. Any funds deposited by the Company with the Depositary for any Depositary Shares that the holders thereof fail to redeem will be returned to the Company after a period of five years from the date such funds are so deposited.

If fewer than all of the Depositary Shares evidenced by a Receipt are called for redemption, the Depositary will deliver to the holder of such Receipt upon its surrender to the Depositary, together with the redemption payment, a new Receipt evidencing the Depositary Shares evidenced by such prior Receipt and not called for redemption; provided, however, that the Depositary shall not issue any Receipt evidencing a fractional Depositary Share.

As provided in the Articles of Incorporation or Articles Supplementary, upon the happening of certain events, shares of Stock shall be deemed to automatically constitute Excess Stock. In the event of such a conversion, the Receipt representing the deposited Stock so converted shall no longer represent, to the extent of the shares so converted, such deposited Stock. Promptly upon its knowledge of the conversion of such deposited Stock into Excess Shares, the Company shall notify the Depositary of such conversion, the number of shares of deposited Stock so converted, and the identity of the holder of the Receipt so affected, whereupon the Depositary shall promptly notify the holder of such Receipt as to the foregoing information and the requirement for the holder to surrender such Receipt to the Depositary for cancellation of the number of Depositary Shares evidenced thereby equal to the deposited Stock constituting Excess Shares represented thereby.

If fewer than all of the Depositary Shares evidenced by a Receipt are required to be surrendered for cancellation, the Depositary will deliver to the holder of such Receipt upon its surrender to the Depositary a new Receipt evidencing the Depositary Shares evidenced by such prior Receipt and not required to be surrendered for cancellation. Upon the conversion of the deposited Stock and cancellation of the Depositary Shares represented thereby, the Depositary will make appropriate adjustments in its records to reflect such conversion and cancellation (including the reduction of any fractional share of deposited Stock and the issuance of any Excess Shares).

## ARTICLE III

## CERTAIN OBLIGATIONS OF HOLDERS OF RECEIPTS AND THE COMPANY

Section 3.1. Filing Proofs, Certificates and Other Information. Any holder of a Receipt may be required from time to time to file such proof of residence, or other matters or other information, to execute such certificates and to make such representations and warranties as the Depositary or the Company may reasonably deem necessary or proper or otherwise reasonably request. The Depositary or the Company may withhold the delivery, or delay the registration of transfer, redemption or exchange, of any Receipt or the withdrawal or conversion of the Stock represented by the Depositary Shares evidenced by any Receipt or the distribution of any dividend or other distribution or the sale of any rights or of the proceeds thereof until such proof or other information is filed or such certificates are executed or such representations and warranties are made.

Section 3.2. Payment of Taxes or Other Governmental Charges. Holders of Receipts shall be obligated to make payments to the Depositary of certain charges and expenses, as provided in Section 5.7. Registration of transfer of any Receipt or any withdrawal of Stock and all money or other property, if any, represented by the Depositary Shares evidenced by such Receipt may be refused until any such payment due is made, and any dividends, interest payments or other distributions may be withheld or any part of or all the Stock or other property represented by the Depositary Shares evidenced by such Receipt and not theretofore sold may be sold for the account of the holder thereof (after attempting by reasonable means to notify such holder prior to such sale), and such dividends, interest payments or other distributions or the proceeds of any such sale may be applied to any payment of such charges or expenses, the holder of such Receipt remaining liable for any deficiency.

Section 3.3. Warranty as to Stock. The Company hereby represents and warrants that the Stock, when issued, will be duly authorized, validly issued, fully paid and nonassessable. Such representation and warranty shall survive the deposit of the Stock and the issuance of Receipts.

## ARTICLE IV

## THE DEPOSITED SECURITIES; NOTICES

Section 4.1. Cash Distributions. Whenever the Depositary shall receive any cash dividend or other cash distribution on Stock, the Depositary shall, subject to Sections 3.1 and 3.2, distribute to record holders of Receipts on the record date fixed pursuant to Section 4.4 such amounts of such dividend or distribution as are, as nearly as practicable, in proportion to the respective numbers of Depositary Shares evidenced by the Receipts held by such holders; provided, however, that in case the Company or the Depositary shall be required to withhold and shall withhold from any cash dividend or other cash distribution in respect of the Stock an amount on account of taxes or as otherwise required by law, regulation or court process, the amount made available for distribution or distributed in respect of Depositary Shares shall be reduced accordingly. In the event that the calculation of any such cash dividend or other cash distribution to be paid to any record holder on the aggregate number of Depositary Receipts held by such holder results in an amount which is a fraction of a cent, the amount the Depositary shall distribute to such record holder shall be rounded to the next highest whole cent if such fraction of a cent is equal to or greater than \$.005; otherwise such fractional interest shall be disregarded; and upon request of the Depositary, the Company shall pay the additional amount to the Depositary for distribution.

Section 4.2. Distributions Other than Cash, Rights, Preferences or Privileges. Whenever the Depositary shall receive any distribution other than cash, rights, preferences or privileges upon Stock, the Depositary shall, subject to Sections 3.1 and 3.2, distribute to record holders of Receipts on the record date fixed pursuant to Section 4.4 such amounts of the securities or property received by it as are, as nearly as may be practicable, in proportion to the respective numbers of Depositary Shares evidenced by the Receipts held by such holders, in any manner that the Depositary may deem equitable and practicable for accomplishing such distribution. If in the opinion of the Depositary such distribution cannot be made proportionately among such record holders, or if for any other reason (including any requirement that the Company or the Depositary withhold an amount on account of taxes) the Depositary deems (after consultation with the Company) such distribution not to be feasible, the Depositary may, with the approval of the Company, adopt such method as it deems equitable and practicable for the purpose of effecting such distribution, including the sale (at public or private sale) of the securities or property thus received, or any part thereof, at such

place or places and upon such terms as it may deem equitable and appropriate. The net proceeds of any such sale shall, subject to Sections 3.1 and 3.2, be distributed or made available for distribution, as the case may be, by the Depositary to record holders of Receipts as provided by Section 4.1 in the case of a distribution received in cash.

Sectin 4.3. Subscription Rights, Preferences or Privileges. If the Company shall at any time offer or cause to be offered to the persons in whose names Stock is recorded on the books of the Company any rights, preferences or privileges to subscribe for or to purchase any securities or any rights, preferences or privileges of any other nature, such rights, preferences or privileges shall in each such instance be made available by the Depositary to the record holders of Receipts in such manner as the Depositary may determine, either by the issue to such record holders of warrants representing such rights, preferences or privileges or by such other method as may be approved by the Depositary in its discretion with the approval of the Company; provided, however, that (i) if at the time of issue or offer of any such rights, preferences or privileges the Depositary determines that it is not lawful or (after consultation with the Company) not feasible to make such rights, preferences or privileges available to holders of Receipts by the issue of warrants or otherwise, or (ii) if and to the extent so instructed by holders of Receipts who do not desire to execute such rights, preferences or privileges, then the Depositary, in its discretion (with approval of the Company, in any case where the Depositary has determined that it is not feasible to make such rights, preferences or privileges available), may, if applicable laws or the terms of such rights, preferences or privileges permit such transfer, sell such rights, preferences or privileges at public or private sale, at such place or places and upon such terms as it may deem proper. The net proceeds of any such sale shall, subject to Sections 3.1 and 3.2, be distributed by the Depositary to the record holders of Receipts entitled thereto as provided by Section 4.1 in the case of a distribution received in cash.

If registration under the Securities Act of the securities to which any rights, preferences or privileges relate is required in order for holders of Receipts to be offered or sold the securities to which such rights, preferences or privileges relate, the Company will file promptly a registration statement pursuant to the Securities Act with respect to such rights, preferences or privileges and securities and use its best efforts and take all steps available to it to cause such registration statement to become effective sufficiently in advance of the expiration of such rights, preferences or privileges to enable such holders to exer-

cise such rights, preferences or privileges. In no event shall the Depositary make available to the holders of Receipts any right, preference or privilege to subscribe for or to purchase any securities unless and until it has received written notice from the Company that such registration statement shall have become effective, or that the offering and sale of such securities to such holders are exempt from registration under the provisions of the Securities Act and the Company shall have provided to the Depositary an opinion of counsel reasonably satisfactory to the Depositary to such effect.

If any other action under the laws of any jurisdiction or any governmental or administrative authorization, consent or permit is required in order for such rights, preferences or privileges to be made available to holders of Receipts, the Company will use its reasonable best efforts to take such action or obtain such authorization, consent or permit sufficiently in advance of the expiration of such rights, preferences or privileges to enable such holders to exercise such rights, preferences or privileges.

Section 4.4. Notice of Dividends, etc.; Fixing Record Date for Holders of Receipts. Whenever any cash dividend or other cash distribution shall become payable or any distribution other than cash shall be made, or if rights, preferences or privileges shall at any time be offered, with respect to Stock, or whenever the Depositary shall receive notice of any meeting at which holders of Stock are entitled to vote or of which holders of Stock are entitled to notice, or whenever the Depositary and the Company shall decide it is appropriate, the Depositary shall in each such instance fix a record date (which shall be the same date as the record date fixed by the Company with respect to or otherwise in accordance with the terms of the Stock) for the determination of the holders of Receipts who shall be entitled to receive such dividend, distribution, rights, preferences or privileges or the net proceeds of the sale thereof, or to give instructions for the exercise of voting rights at any such meeting, or who shall be entitled to notice of such meeting or for any other appropriate reasons.

Section 4.5. Voting Rights. Upon receipt of notice of any meeting at which the holders of Stock are entitled to vote, the Depositary shall, as soon as practicable thereafter, mail to the record holders of Receipts a notice which shall contain (i) such information as is contained in such notice of meeting and (ii) a statement that the holders may, subject to any applicable restrictions, instruct the Depositary as to the exercise of the voting rights pertaining to the amount of Stock represented by their respective Depositary Shares (including an express indica-

tion that instructions may be given to the Depositary to give a discretionary proxy to a person designated by the Company) and a brief statement as to the manner in which such instructions may be given. Upon the written request of the holders of Receipts on the relevant record date, the Depositary shall use its best efforts to vote or cause to be voted, in accordance with the instructions set forth in such requests, the maximum number of whole shares of Stock represented by the Depositary Shares evidenced by all Receipts as to which any particular voting instructions are received. The Company hereby agrees to take all action which may be deemed necessary by the Depositary in order to enable the Depositary to vote such Stock or cause such Stock to be voted. In the absence of specific instructions from the holder of a Receipt, the Depositary will not vote to the extent of the Stock represented by the Depositary Shares evidenced by such Receipt.

Section 4.6. Changes Affecting Deposited Securities and Reclassifications, Recapitalizations, etc. Upon any change in par value or liquidation preference, split-up, combination or any other etc reclassification of the Stock, or upon any recapitalization, reorganization, merger or consolidation affecting the Company or to which it is a party, the Depositary may in its discretion with the approval (not to be unreasonably withheld) of, and shall upon the instructions of, the Company, and (in either case) in such manner as the Depositary may deem equitable, (i) make such adjustments in the fraction of an interest in one share of Stock represented by one Depositary Share as may be necessary (as certified by the Company) fully to reflect the effects of such change in par value or liquidation preference, split-up, combination or other reclassification of Stock, or of such recapitalization, reorganization, merger or consolidation and (ii) treat any securities which shall be received by the Depositary in exchange for or upon conversion of or in respect of the Stock as new deposited securities so received in exchange for or upon conversion or in respect of such Stock. In any such case, the Depositary may in its discretion, with the approval of the Company, execute and deliver additional Receipts or may call for the surrender of all outstanding Receipts to be exchanged for new Receipts specifically describing such new deposited securities. Anything to the contrary herein notwithstanding, holders of Receipts shall have the right from and after the effective date of any such change in par value or liquidation preference, split-up, combination or other reclassification of the Stock or any such recapitalization, reorganization, merger or consolidation to surrender such Receipts to the Depositary with instructions to convert, exchange or surrender the Stock represented thereby only into or for, as the case may be, the kind and amount of shares of stock and other securities and property and cash into which the Stock represented by such Receipts would have

been converted or for which such Stock would have been exchanged or surrendered had such Receipt been surrendered immediately prior to the effective date of such transaction.

Section 4.7. Delivery of Reports. The Depositary shall furnish to holders of Receipts any reports and communications received from the Company which are received by the Depositary as the holder of Stock.

Section 4.8. List of Receipt Holders. Promptly upon request from time to time by the Company, the Depositary shall furnish to it a list, as of the most recent practicable date, of the names, addresses and holdings of Depositary Shares of all record holders of Receipts. The Company shall be entitled to receive such list four times annually without charge.

#### ARTICLE V

##### THE DEPOSITARY, THE DEPOSITARY'S AGENTS, THE REGISTRAR AND THE COMPANY

Section 5.1 Maintenance of Offices, Agencies and Transfer Books by the Depositary; Registrar. Upon execution of this Deposit Agreement, the Depositary shall maintain at the Depositary's Office facilities for the execution and delivery, registration and registration of transfer, surrender and exchange of Receipts, and at the offices of the Depositary's Agents, if any, facilities for the delivery, registration of transfer, surrender and exchange of Receipts, all in accordance with the provisions of this Deposit Agreement.

The Depositary shall keep books at the Depositary's Office for the registration and registration of transfer of Receipts, which books during normal business hours shall be open for inspection by the record holders of Receipts; provided that any such holder requesting to exercise such right shall certify to the Depositary that such inspection shall be for a proper purpose reasonably related to such person's interest as an owner of Depositary Shares evidenced by the Receipts.

The Depositary may close such books, at any time or from time to time, when deemed expedient by it in connection with the performance of its duties hereunder.

The Depositary may, with the approval of the Company, appoint a Registrar for registration of the Receipts or the Depositary Shares evidenced thereby. If the Receipts or the Depositary Shares evidenced thereby or the Stock represented by such De-



pository Shares shall be listed on one or more national securities exchanges, the Depositary will appoint a Registrar (acceptable to the Company) for registration of such Receipts or Depositary Shares in accordance with any requirements of such exchange. Such Registrar (which may be the Depositary if so permitted by the requirements of any such exchange) may be removed and a substitute registrar appointed by the Depositary upon the request or with the approval of the Company. If the Receipts, such Depositary Shares or such Stock is listed on one or more other stock exchanges, the Depositary will, at the request and at the expense of the Company, arrange such facilities for the delivery, registration, registration of transfer, surrender and exchange of such Receipts, such Depositary Shares or such Stock as may be required by law or applicable securities exchange regulation.

The Depositary may from time to time appoint Depositary's Agents to act in any respect for the Depositary for the purposes of this Deposit Agreement and may at any time appoint additional Depositary's Agents and vary or terminate the appointment of such Depositary's Agents. The Depositary will notify the Company of any such action.

SECTION 5.2. Prevention of or Delay in Performance by the Depositary, the Depositary's Agents, the Registrar or t. Neither the Depositary nor any Depositary's Agent nor the Registrar nor the Company shall incur any liability to any holder of any Receipt if by reason of any provision of any present or future law, or regulation thereunder, of the United States of America or of any other governmental authority or, in the case of the Depositary, the Depositary's Agent or the Registrar, by reason of any provision, present or future, of the Company's Amended and Restated Articles of Incorporation or by reason of any act of God or war or other circumstance beyond the control of the relevant party, the Depositary, the Depositary's Agent, the Registrar or the Company shall be prevented, delayed or forbidden from, or subjected to any penalty on account of, doing or performing any act or thing which the terms of this Deposit Agreement provide shall be done or performed; nor shall the Depositary, any Depositary's Agent, the Registrar or the Company incur liability to any holder of a Receipt (i) by reason of any nonperformance or delay, caused as aforesaid, in the performance of any act or thing which the terms of this Deposit Agreement shall provide shall or may be done or performed, or (ii) by reason of any exercise of, or failure to exercise, any discretion provided for in this Deposit Agreement except, in the case of any such exercise or failure to exercise discretion not caused as aforesaid, if caused by the gross negligence or willful misconduct of the party charged with such exercise or failure to exercise.

Section 5.3. Obligation of the Depositary, the Depositary's Agents, the Registrar and the Company. Neither the Depositary nor any Depositary's Agent nor the Registrar nor the Company assumes any obligation or shall be subject to any liability under this Deposit Agreement or any Receipt to holders of Receipts other than for its gross negligence, willful misconduct or bad faith.

Neither the Depositary nor any Depositary's Agent nor the Registrar nor the Company shall be under any obligation to appear in, prosecute or defend any action, suit or other proceeding in respect of the Stock, the Depositary Shares or the Receipts which in its reasonable opinion may involve it in expense or liability unless indemnity reasonably satisfactory to it against expense and liability be furnished as often as may be reasonably required.

Neither the Depositary nor any Depositary's Agent nor the Registrar nor the Company shall be liable for any action or any failure to act by it in reliance upon the written advice of legal counsel or accountants, or information from any person presenting Stock for deposit, any holder of a Receipt or any other person believed by it in good faith to be competent to give such information. The Depositary, any Depositary's Agent, the Registrar and the Company may each rely and shall each be protected in acting upon any written notice, request, direction or other document reasonably believed by it to be genuine and to have been signed or presented by the proper party or parties.

The Depositary shall not be responsible for any failure to carry out any instruction to vote any of the shares of Stock or for the manner or effect of any such vote made, as long as any such action or inaction is in good faith. The Depositary will indemnify the Company and hold it harmless from any loss, liability or expense (including the reasonable costs and expenses of defending itself) which may arise out of acts performed or omitted by the Depositary, including when the Depositary acts as Registrar, or the Depositary's Agents in connection with this Agreement due to its or their negligence, willful misconduct or bad faith. The indemnification obligations of the Depositary set forth in this Section 5.3 shall survive any termination of this Agreement and any succession of any Depositary.

The Depositary, its parent, affiliates or subsidiaries, the Depositary's Agents and the Registrar may own, buy, sell and deal in any class of securities of the Company and its affiliates and in Receipts or Depositary Shares or become pecuniarily interested in any transaction in which the Company or its affiliates may be interested or contract with or lend money to any such per-

son or otherwise act as fully or as freely as if it were not the Depositary, parent, affiliate or subsidiary or Depositary's Agent or Registrar hereunder. The Depositary may also act as trustee, transfer agent or registrar of any of the securities of the Company and its affiliates.

It is intended that neither the Depositary nor any Depositary's Agent nor the Registrar, acting as the Depositary's Agent or Registrar, as the case may be, shall be deemed to be an "issuer" of the securities under the federal securities laws or applicable state securities laws, it being expressly understood and agreed that the Depositary, any Depositary's Agent and the Registrar are acting only in a ministerial capacity as Depositary or Registrar for the Stock.

Neither the Depositary (or its officers, directors, employees or agents) nor any Depositary's Agent nor the Registrar makes any representation or has any responsibility as to the validity of the registration statement pursuant to which the Depositary Shares are registered under the Securities Act, the Stock, the Depositary Shares or the Receipts (except for its counter-signatures thereon) or any instruments referred to therein or herein, or as to the correctness of any statement made therein or herein.

The Depositary assumes no responsibility for the correctness of the description that appears in the Receipts. Notwithstanding any other provision herein or in the Receipts, the Depositary makes no warranties or representations as to the validity or genuineness of any Stock at any time deposited with the Depositary hereunder or of the Depositary Shares, as to the validity or sufficiency of this Deposit Agreement, as to the value of the Depositary Shares or as to any right, title or interest of the record holders of Receipts in and to the Depositary Shares. The Depositary shall not be accountable for the use or application by the Company of the Depositary Shares or the Receipts or the proceeds thereof.

Section 5.4. Resignation and Removal of the Depositary; Appointment of Successor Depositary. The Depositary may at any time resign as Depositary hereunder by delivering notice of its election to do so to the Company, such resignation to take effect upon the appointment of a successor Depositary and its acceptance of such appointment as hereinafter provided.

The Depositary may at any time be removed by the Company by notice of such removal delivered to the Depositary, such removal to take effect upon the appointment of a successor Deposi-

tary and its acceptance of such appointment as hereinafter provided.

In case at any time the Depositary acting hereunder shall resign or be removed, the Company shall, within 60 days after the delivery of the notice of resignation or removal, as the case may be, appoint a successor Depositary, which shall be a bank or trust company having its principal office in the United States of America and having a combined capital and surplus of at least \$150,000,000. If no successor Depositary shall have been so appointed and have accepted appointment within 60 days after delivery of such notice, the resigning or removed Depositary may petition any court of competent jurisdiction for the appointment of a successor Depositary. Every successor Depositary shall execute and deliver to its predecessor and to the Company an instrument in writing accepting its appointment hereunder, and thereupon such successor Depositary, without any further act or deed, shall become fully vested with all the rights, powers, duties and obligations of its predecessor and for all purposes shall be the Depositary under this Deposit Agreement, and such predecessor, upon payment of all sums due it and on the written request of the Company, shall execute and deliver an instrument transferring to such successor all rights and powers of such predecessor hereunder, shall duly assign, transfer and deliver all right, title and interest in the Stock and any moneys or property held hereunder to such successor, and shall deliver to such successor a list of the record holders of all outstanding Receipts and such records, books and other information in its possession relating thereto. Any successor Depositary shall promptly mail notice of its appointment to the record holders of Receipts.

Any corporation into or with which the Depositary may be merged, consolidated or converted shall be the successor of such Depositary without the execution or filing of any document or any further act, and notice thereof shall not be required hereunder. Such successor Depositary may authenticate the Receipts in the name of the predecessor Depositary or in the name of the successor Depositary.

Section 5.5. Corporate Notices and Reports. The Company agrees that it will deliver to the Depositary, and the Depositary will, promptly after receipt thereof, transmit to the record holders of Receipts, in each case at the addresses recorded in the Depositary's books, copies of all notices and reports (including without limitation financial statements) required by law or by the rules of any national securities exchange upon which the Stock, the Depositary Shares or the Receipts are listed, to be furnished to the record holders of Receipts. Such transmission

will be at the Company's expense and the Company will provide the Depositary with such number of copies of such documents as the Depositary may reasonably request.

Section 5.6. Indemnification by the Company. The Company shall indemnify the Depositary, any Depositary's Agent and the Registrar against, and hold each of them harmless from, any loss, liability or expense (including the reasonable costs and expenses of defending itself) which may arise out of acts performed or omitted in connection with this Deposit Agreement and the Receipts by the Depositary, any Registrar or any of their respective agents (including any Depositary's Agent), except for any liability arising out of negligence, willful misconduct or bad faith on the respective parts of any such person or persons. The obligations of the Company set forth in this Section 5.6 shall survive any succession of any Depositary or Depositary's Agent.

Section 5.7. Charges and Expenses. The Company shall pay all transfer and other taxes and governmental charges arising solely from the existence of the depositary arrangements. The Company shall pay charges of the Depositary in connection with the initial deposit of the Stock and the initial issuance of the Depositary Shares, all withdrawals of shares of the Stock by owners of Depositary Shares, and any redemption of the Stock at the option of the Company. All other transfer and other taxes and governmental charges shall be at the expense of holders of Depositary Shares. If, at the request of a holder of Receipts, the Depositary incurs charges or expenses for which it is not otherwise liable hereunder, such holder will be liable for such charges and expenses. All other charges and expenses of the Depositary and any Depositary's Agent hereunder (including, in each case, reasonable fees and expenses of counsel) incident to the performance of their respective obligations hereunder will be paid upon consultation and agreement between the Depositary and the Company as to the amount and nature of such charges and expenses. The Depositary shall present its statement for charges and expenses to the Company at such intervals as the Company and the Depositary may agree.

Section 5.8. Tax Compliance. The Depositary, on its own behalf and on behalf of the Company, will comply with all applicable certification, information reporting and withholding (including "backup" withholding) requirements imposed by applicable tax laws, regulations or administrative practice with respect to (i) any payments made with respect to the Depositary Shares or (ii) the issuance, delivery, holding, transfer, redemption or exercise of rights under the Depositary Receipts or the Depositary Shares. Such compliance shall include, without limitation, the

preparation and timely filing of required returns and the timely payment of all amounts required to be withheld to the appropriate taxing authority or its designated agent.

The Depositary shall comply with any direction received from the Company with respect to the application of such requirements to particular payments or holders or in other particular circumstances, and may for purposes of this Agreement rely on any such direction in accordance with the provisions of Section 5.3 hereof.

The Depositary shall maintain all appropriate records documenting compliance with such requirements, and shall make such records available on request to the Company or to its authorized representatives.

## ARTICLE VI

### AMENDMENT AND TERMINATION

Section 6.1. Amendment. The form of the Receipts and any provisions of this Deposit Agreement may at any time and from time to time be amended by agreement between the Company and the Depositary in any respect which they may deem necessary or desirable; provided, however, that no such amendment (other than any change in the fees) which shall materially adversely alter the rights of the holders of Receipts shall be effective unless such amendment shall have been approved by the holders of at least a majority of the Depositary Shares then outstanding. Every holder of an outstanding Receipt at the time any such amendment becomes effective shall be deemed, by continuing to hold such Receipt, to be bound by the Deposit Agreement as amended thereby. Subject to Section 2.9 hereof, notwithstanding the foregoing, in no event may any amendment impair the right of any holder of any Depositary Shares, upon surrender of the Receipts evidencing such Depositary Shares and subject to any conditions specified in this Deposit Agreement, to receive shares of Stock and any money or other property, if any, represented thereby, except in order to comply with mandatory provisions of applicable law.

Section 6.2. Termination. This Deposit Agreement may be terminated by the Company at any time upon not less than 30 days' prior written notice to the Depositary, in which case, on a date that is not later than 30 days after the date of such notice, the Depositary shall deliver or make available for delivery to holders of Depositary Shares, upon surrender of the Receipts evidencing such Depositary Shares, such number of whole or fractional shares of Stock as are represented by such Depositary Shares.

This Deposit Agreement will automatically terminate after (i) all outstanding Depositary Shares have been redeemed pursuant to Section 2.8 or (ii) there shall have been made a final distribution in respect of the Stock in connection with any liquidation, dissolution or winding up of the Company and such distribution shall have been distributed to the holders of Depositary Receipts pursuant to Section 4.1 or 4.2, as applicable.

Upon the termination of this Deposit Agreement, the Company shall be discharged from all obligations under this Deposit Agreement except for its obligations to the Depositary, the Registrar and any Depositary's Agent under Sections 5.6 and 5.7.

## ARTICLE VII

### MISCELLANEOUS

Section 7.1. Counterparts. This Deposit Agreement may be executed in any number of counterparts, and by each of the parties hereto on separate counterparts, each of which counterparts, when so executed and delivered, shall be deemed an original, but all such counterparts taken together shall constitute one and the same instrument.

Section 7.2. Exclusive Benefit of Parties. This Deposit Agreement is for the exclusive benefit of the parties hereto, and their respective successors hereunder, and shall not be deemed to give any legal or equitable right, remedy or claim to any other person whatsoever.

Section 7.3. Invalidity of Provisions. In case any one or more of the provisions contained in this Deposit Agreement or in the Receipts should be or become invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained herein or therein shall in no way be affected, prejudiced or disturbed thereby.

Section 7.4. Notices. Any and all notices to be given to the Company hereunder or under the Receipts shall be in writing and shall be deemed to have been duly given if personally delivered or sent by mail, or by telegram or facsimile transmission confirmed by letter, addressed to the Company at:

First Industrial Realty Trust, Inc.  
150 N. Wacker Drive, Suite 150  
Chicago, Illinois 60606  
Facsimile No.: (312) 704-6606

or at any other address of which the Company shall have notified the Depositary in writing.

Any and all notices to be given to the Depositary hereunder or under the Receipts shall be in writing and shall be deemed to have been duly given if personally delivered or sent by mail or by telegram or facsimile transmission confirmed by letter, addressed to the Depositary at the Depositary's Office, at:

First Chicago Trust Company of New York  
One First National Plaza, Suite 0123  
Chicago, IL 60670  
Attention: John Ruocco  
Facsimile No.: (312) 407-3021

or at any other address of which the Depositary shall have notified the Company in writing.

Any and all notices to be given to any record holder of a Receipt hereunder or under the Receipts shall be in writing and shall be deemed to have been duly given if personally delivered or sent by mail, or by telegram or facsimile transmission confirmed by letter, addressed to such record holder at the address of such record holder as it appears on the books of the Depositary, or if such holder shall have filed with the Depositary a written request that notices intended for such holder be mailed to some other address, at the address designated in such request.

Delivery of a notice sent by mail or by telegram or facsimile transmission shall be deemed to be effected at the time when a duly addressed letter containing the same (or a confirmation thereof in the case of a telegram or facsimile transmission) is deposited for mailing by first class mail, postage prepaid. The Depositary or the Company may, however, act upon any telegram or facsimile transmission received by it from the other or from any holder of a Receipt, notwithstanding that such telegram or facsimile transmission shall not subsequently be confirmed by letter or as aforesaid.

Section 7.5. Appointment of Registrar. The Company hereby also appoints the Depositary as Registrar in respect of the Receipts and the Depositary hereby accepts such appointments.

Section 7.6. Holders of Receipts Are Parties. The holders of Receipts from time to time shall be parties to this Deposit Agreement and shall be bound by all of the terms and conditions hereof and of the Receipts by acceptance of delivery thereof.



Section 7.7. Governing Law. THIS DEPOSIT AGREEMENT AND THE RECEIPTS AND ALL RIGHTS HEREUNDER AND THEREUNDER AND PROVISIONS HEREOF AND THEREOF SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS APPLICABLE TO CONTRACTS MADE IN AND TO BE PERFORMED IN THE STATE OF NEW YORK WITHOUT REGARD TO THE CONFLICTS OF LAWS PRINCIPLES THEREOF.

Section 7.8. Inspection of Deposit Agreement. Copies of this Deposit Agreement shall be filed with the Depository and the Depository's Agent and shall be open to inspection during business hours at the Depository's office or respective offices of the Depository's Agent, if any, by any holder of a Receipt.

Section 7.9. Headings. The headings of articles and sections in this Deposit Agreement have been inserted for convenience only and are not to be regarded as a part of this Deposit Agreement or the Receipts or to have any bearing upon the meaning or interpretation of any provision contained herein or in the Receipts.

IN WITNESS WHEREOF, the Company and the Depositary have duly executed this Agreement as of the day and year first above set forth, and all holders of Receipts shall become parties hereto by and upon acceptance by them of delivery of Receipts issued in accordance with the terms hereof.

FIRST INDUSTRIAL REALTY TRUST, INC.

-----  
Name:  
Title:

FIRST CHICAGO TRUST COMPANY OF NEW YORK

-----  
Name:  
Title:

[FORM OF FACE OF RECEIPT

NUMBER

DR-

(CUSIP\_\_\_\_\_)

THIS CERTIFICATE IS TRANSFERABLE  
IN CHICAGO AND NEW YORK

RECEIPT FOR DEPOSITARY SHARES,  
EACH REPRESENTING 1/100 OF A SHARE OF  
SERIES B CUMULATIVE PREFERRED STOCK

FIRST INDUSTRIAL REALTY TRUST, INC.  
(INCORPORATED UNDER THE LAWS OF THE STATE OF MARYLAND)

First Chicago Trust Company of New York, a national banking association  
duly organized and existing under the laws of the United States of America with  
an office at the time of execution of the Deposit Agreement (as defined below)  
at One First National Plaza, Suite 0123, Chicago, IL 60670, as Depositary (the  
"Depositary"), hereby certifies that

\_\_\_\_\_ is a registered owner of \_\_\_\_\_ DEPOSITARY  
SHARES ("Depositary Shares"), each Depositary Share representing 1/100 of one  
fully paid and non-assessable share of Series B Cumulative Preferred Stock, \$.01  
par value per share (the "Shares"), of First Industrial Realty Trust, Inc., a  
Maryland corporation (the "Company"), on deposit with the Depositary, subject to  
the terms and entitled to the benefits of the Deposit Agreement dated as of May  
14, 1997 (the "Deposit Agreement"), among the Company, the Depositary and the  
holders from time to time of Receipts for Depositary Shares. By accepting this  
Receipt, the holder hereof becomes a party to and agrees to be bound by all the  
terms and conditions of the Deposit Agreement. This Receipt shall not be valid  
or obligatory for any purpose or be entitled to any benefits under the Deposit  
Agreement unless it shall have been executed by the Depositary by the manual or  
facsimile signature of a duly authorized officer or, if a Registrar in respect  
of the Receipts (other than the Depositary) shall have been appointed, by the  
manual signature of a duly authorized officer of such Registrar.

Dated:

Countersigned and Registered:  
FIRST CHICAGO TRUST COMPANY OF NEW YORK  
Depositary and Registrar

By: \_\_\_\_\_  
SECRETARY AND TREASURER

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

[FORM OF REVERSE OF RECEIPT]  
FIRST INDUSTRIAL REALTY TRUST, INC.

THE SHARES OF STOCK REPRESENTED BY THIS DEPOSITARY RECEIPT ARE SUBJECT TO RESTRICTIONS ON TRANSFER FOR THE PURPOSE OF THE CORPORATION'S MAINTENANCE OF ITS QUALIFICATION AS A REAL ESTATE INVESTMENT TRUST UNDER THE INTERNAL REVENUE CODE OF 1986, AS AMENDED. NO PERSON MAY BENEFICIALLY OWN SHARES OF STOCK IN EXCESS OF 9.9% (OR SUCH GREATER PERCENTAGE AS MAY BE DETERMINED BY THE BOARD OF DIRECTORS OF THE CORPORATION) OF THE OUTSTANDING STOCK OF THE CORPORATION. ANY PERSON WHO ATTEMPTS TO BENEFICIALLY OWN SHARES OF STOCK IN EXCESS OF THE ABOVE LIMITATION MUST IMMEDIATELY NOTIFY THE CORPORATION. ALL CAPITALIZED TERMS IN THIS LEGEND HAVE THE MEANINGS DEFINED IN THE CORPORATION'S ARTICLES OF INCORPORATION, A COPY OF WHICH, INCLUDING THE RESTRICTIONS ON TRANSFER, WILL BE SENT WITHOUT CHARGE TO EACH STOCKHOLDER WHO SO REQUESTS. IF THE RESTRICTIONS ON TRANSFER ARE VIOLATED, THE SHARES OF STOCK REPRESENTED HEREBY MAY BE AUTOMATICALLY EXCHANGED FOR SHARES OF EXCESS STOCK WHICH WILL BE HELD IN TRUST BY THE CORPORATION.

THE CORPORATION WILL FURNISH TO ANY STOCKHOLDER ON REQUEST AND WITHOUT CHARGE A FULL STATEMENT OF THE DESIGNATIONS AND ANY PREFERENCES, CONVERSIONS AND OTHER RIGHTS, VOTING POWERS, RESTRICTIONS, LIMITATIONS AS TO DIVIDENDS, QUALIFICATIONS, AND TERMS AND CONDITIONS OF REDEMPTION OF THE STOCK OF EACH CLASS WHICH THE CORPORATION IS AUTHORIZED TO ISSUE AND, WITH RESPECT TO ANY PREFERRED OR SPECIAL CLASS IN A SERIES, THE DIFFERENCES IN THE RELATIVE RIGHTS AND PREFERENCES BETWEEN THE SHARES OF EACH SERIES TO THE EXTENT THEY HAVE BEEN SET AND THE AUTHORITY OF THE BOARD OF DIRECTORS TO SET THE RELATIVE RIGHTS AND PREFERENCES OF SUBSEQUENT SERIES.

The following abbreviations, when used in the inscription on the face of this Depositary Receipt, shall be construed as though they were written out in full according to applicable laws or regulations:

TEN COM-- as tenants in common UNIF GIFT MIN ACT -. . . Custodian . . . .  
TEN ENT-- tenants by the (Cust) Minor  
entireties  
JT TEN -- as joint tenants with under Uniform Gifts to Minors  
with of survivorship Act . . . . .  
and not as tenants (State)  
in common

Additional abbreviations may also be used though not in the above list.

For Value Received, \_\_\_\_\_ hereby sells, assigns and transfers unto

-----  
PLEASE INSERT SOCIAL SECURITY OR OTHER IDENTIFYING NUMBER OF ASSIGNEE  
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PLEASE PRINT OR TYPEWRITE NAME AND ADDRESS INCLUDING POSTAL ZIP CODE OF ASSIGNEE  
-----

Depositary Shares represented by the within Depositary Receipt, and do hereby irrevocably constitute and appoint \_\_\_\_\_ Attorney to transfer the said Depositary Shares on the books of the within named Depositary with full power of substitution in the premises.

-----  
Dated

-----  
Signed

NOTICE: THE SIGNATURE TO THIS ASSIGNMENT MUST CORRESPOND WITH THE NAME AS WRITTEN UPON THE FACE OF THIS DEPOSITARY RECEIPT IN EVERY PARTICULAR, WITHOUT ALTERATION OR ENLARGEMENT OR ANY CHANGE WHATSOEVER.

SIGNATURE(S) GUARANTEED

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

THE SIGNATURE(S) SHOULD BE GUARANTEED BY AN ELIGIBLE GUARANTOR INSTITUTION (BANKS, STOCKBROKERS, SAVINGS AND LOAN ASSOCIATIONS AND CREDIT UNIONS WITH MEMBERSHIP IN AN APPROVED SIGNATURE GUARANTEE MEDALLION PROGRAM), PURSUANT TO S.E.C. RULE 17Ad-15.

A-2

[FORM OF FACE OF RECEIPT]

NUMBER SHARES  
DRT- FIRST INDUSTRIAL

THIS CERTIFICATE IS TRANSFERABLE (CUSIP \_\_\_\_\_)  
IN NEW YORK, NY SEE REVERSE  
FOR CERTAIN  
DEFINITIONS

RECEIPT FOR DEPOSITARY SHARES,  
EACH REPRESENTING 1/100 OF A SHARE OF  
8 3/4% SERIES B CUMULATIVE PREFERRED STOCK

FIRST INDUSTRIAL REALTY TRUST, INC.  
(INCORPORATED UNDER THE LAWS OF THE STATE OF MARYLAND)

First Chicago Trust Company of New York, a national banking association duly organized and existing under the laws of the United States of America with an office at the time of execution of the Deposit Agreement (as defined below) at One First National Plaza, Suite 0123, Chicago, IL 60670, as Depositary (the "Depositary"), hereby certifies that

is a registered owner of DEPOSITARY SHARES ("Depositary Shares"), each Depositary Share representing 1/100 of one fully paid and non-assessable share of 8 3/4% Series B Cumulative Preferred Stock, \$2,500 liquidation preference per preferred share (the "Shares"), of First Industrial Realty Trust, Inc., a Maryland corporation (the "Company"), on deposit with the Depositary, subject to the terms and entitled to the benefits of the Deposit Agreement dated as of May 14, 1997 (the "Deposit Agreement"), among the Company, the Depositary and the holders from time to time of Receipts for Depositary Shares. By accepting this Receipt, the holder hereof becomes a party to and agrees to be bound by all the terms and conditions of the Deposit Agreement. This Receipt shall not be valid or obligatory for any purpose or be entitled to any benefits under the Deposit Agreement unless it shall have been executed by the Depositary by the manual or facsimile signature of a duly authorized officer or, if a Registrar in respect of the Receipts (other than the Depositary) shall have been appointed, by the manual signature of a duly authorized officer of such Registrar.

Dated:

President

Countersigned and Registered:

FIRST CHICAGO TRUST COMPANY OF NEW YORK  
Depositary and  
Registrar

Secretary and Treasurer

[FORM OF REVERSE OF RECEIPT]

FIRST INDUSTRIAL REALTY TRUST, INC.

THE SHARES OF STOCK REPRESENTED BY THIS DEPOSITARY RECEIPT ARE SUBJECT TO RESTRICTIONS ON TRANSFER FOR THE PURPOSE OF THE CORPORATION'S MAINTENANCE OF ITS QUALIFICATION AS A REAL ESTATE INVESTMENT TRUST UNDER THE INTERNAL REVENUE CODE OF 1986, AS AMENDED. NO PERSON MAY BENEFICIALLY OWN SHARES OF STOCK IN EXCESS OF 9.9% (OR SUCH GREATER PERCENTAGE AS MAY BE DETERMINED BY THE BOARD OF DIRECTORS OF THE CORPORATION) OF THE OUTSTANDING STOCK OF THE CORPORATION. ANY PERSON WHO ATTEMPTS TO BENEFICIALLY OWN SHARES OF STOCK IN EXCESS OF THE ABOVE LIMITATION MUST IMMEDIATELY NOTIFY THE CORPORATION. ALL CAPITALIZED TERMS IN THIS LEGEND HAVE THE MEANINGS DEFINED IN THE CORPORATION'S ARTICLES OF INCORPORATION, A COPY OF WHICH, INCLUDING THE RESTRICTIONS ON TRANSFER, WILL BE SENT WITHOUT CHARGE TO EACH STOCKHOLDER WHO SO REQUESTS. IF THE RESTRICTIONS ON TRANSFER ARE VIOLATED, THE SHARES OF STOCK REPRESENTED HEREBY MAY BE AUTOMATICALLY EXCHANGED FOR SHARES OF EXCESS STOCK WHICH WILL BE HELD IN TRUST BY THE CORPORATION.

THE CORPORATION WILL FURNISH TO ANY STOCKHOLDER ON REQUEST AND WITHOUT CHARGE A FULL STATEMENT OF THE DESIGNATIONS AND ANY PREFERENCES, CONVERSIONS AND OTHER RIGHTS, VOTING POWERS, RESTRICTIONS, LIMITATIONS AS TO DIVIDENDS, QUALIFICATIONS, AND TERMS AND CONDITIONS OF REDEMPTION OF THE STOCK OF EACH CLASS WHICH THE CORPORATION IS AUTHORIZED TO ISSUE AND, WITH RESPECT TO ANY PREFERRED OR SPECIAL CLASS IN A SERIES, THE DIFFERENCES IN THE RELATIVE RIGHTS AND PREFERENCES BETWEEN THE SHARES OF EACH SERIES TO THE EXTENT THEY HAVE BEEN SET AND THE AUTHORITY OF THE BOARD OF DIRECTORS TO SET THE RELATIVE RIGHTS AND PREFERENCES OF SUBSEQUENT SERIES.

The following abbreviations, when used in the inscription on

the face of this Depository Receipt, shall be construed as though they were written out in full according to applicable laws or regulations:

TEN COM--	as tenants in common	UNIF GIFT MIN ACT--.....Custodian.....
TEN ENT--	as tenants by the entireties	(Cust) (Minor)
JT TEN --	as joint tenants with right of survivorship and not as tenants in common	under Uniform Gifts to Minors Act ..... (State)

Additional abbreviations may also be used though not in the above list.

For Value Received, \_\_\_\_\_ hereby sells, assigns and transfers unto

PLEASE INSERT SOCIAL SECURITY OR OTHER IDENTIFYING NUMBER OF ASSIGNEE

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[FORM OF FACE OF RECEIPT]

NUMBER  
1

SHARES  
40,000

FIRST INDUSTRIAL REALTY TRUST, INC.  
Series B Cumulative Preferred Stock  
INCORPORATED UNDER THE LAWS OF THE STATE OF MARYLAND

This Certifies that FIRST CHICAGO TRUST COMPANY OF NEW YORK, as Depositary is the owner of Forty Thousand Series B Cumulative Preferred Shares, such Shares are fully paid and non-assessable Shares of the above Corporation transferable only on the books of the Corporation by the holder hereof in person or by duly authorized Attorney upon surrender of this Certificate properly endorsed.

In Witness Whereof, the said Corporation has caused this Certificate to be signed by its duly authorized officers and to be sealed with the Seal of the Corporation.

Dated: May 14, 1997

[LOGO]

SECRETARY AND TREASURER

PRESIDENT

[FORM OF REVERSE OF RECEIPT]

FIRST INDUSTRIAL REALTY TRUST, INC.

THE SHARES OF STOCK REPRESENTED BY THIS CERTIFICATE ARE SUBJECT TO RESTRICTIONS ON TRANSFER FOR THE PURPOSE OF THE CORPORATION'S MAINTENANCE OF ITS QUALIFICATION AS A REAL ESTATE INVESTMENT TRUST UNDER THE INTERNAL REVENUE CODE OF 1986, AS AMENDED. NO PERSON MAY BENEFICIALLY OWN SHARES OF STOCK IN EXCESS OF 9.9% (OR SUCH GREATER PERCENTAGE AS MAY BE DETERMINED BY THE BOARD OF DIRECTORS OF THE CORPORATION) OF THE OUTSTANDING STOCK OF THE CORPORATION. ANY PERSON WHO ATTEMPTS TO BENEFICIALLY OWN SHARES OF STOCK IN EXCESS OF THE ABOVE LIMITATION MUST IMMEDIATELY NOTIFY THE CORPORATION. ALL CAPITALIZED TERMS IN THIS LEGEND HAVE THE MEANINGS DEFINED IN THE CORPORATION'S ARTICLES OF INCORPORATION, A COPY OF WHICH, INCLUDING THE RESTRICTIONS ON TRANSFER, WILL BE SENT WITHOUT CHARGE TO EACH STOCKHOLDER WHO SO REQUESTS. IF THE RESTRICTIONS ON TRANSFER ARE VIOLATED, THE SHARES OF STOCK REPRESENTED HEREBY MAY BE AUTOMATICALLY EXCHANGED FOR SHARES OF EXCESS STOCK WHICH WILL BE HELD IN TRUST BY THE CORPORATION.

THE CORPORATION WILL FURNISH TO ANY STOCKHOLDER ON REQUEST AND WITHOUT CHARGE A FULL STATEMENT OF THE DESIGNATIONS AND ANY PREFERENCES, CONVERSIONS AND OTHER RIGHTS, VOTING POWERS, RESTRICTIONS, LIMITATIONS AS TO DIVIDENDS, QUALIFICATIONS, AND TERMS AND CONDITIONS OF REDEMPTION OF THE STOCK OF EACH CLASS WHICH THE CORPORATION IS AUTHORIZED TO ISSUE AND, WITH RESPECT TO ANY PREFERRED OR SPECIAL CLASS IN A SERIES, THE DIFFERENCES IN THE RELATIVE RIGHTS AND PREFERENCES BETWEEN THE SHARES OF EACH SERIES TO THE EXTENT THEY HAVE BEEN SET AND THE AUTHORITY OF THE BOARD OF DIRECTORS TO SET THE RELATIVE RIGHTS AND PREFERENCES OF SUBSEQUENT SERIES.

The following abbreviations, when used in the inscription on the face of this Certificate, shall be construed as though they were written out in full according to applicable laws or regulations. Additional abbreviations may also be used though not in the list.

TEN COM-- as tenants in common      UNIF GIFT MIN ACT--.....Custodian.....(Minor)  
TEN ENT-- as tenants by the          under Uniform Gifts to Minors Act..... (State)  
          entireties  
JT TEN -- as joint tenants with  
          right of survivorship  
          and not as tenants in  
          common

For value received, the undersigned hereby      PLEASE INSERT SOCIAL SECURITY OR  
OTHER sells, assigns and transfers unto          IDENTIFYING NUMBER OF ASSIGNEE



FIRST INDUSTRIAL, L.P.  
THIRD AMENDED AND RESTATED  
LIMITED PARTNERSHIP AGREEMENT

THESE SECURITIES ARE SUBJECT TO RESTRICTIONS ON TRANSFERABILITY AND RESALE AND MAY NOT BE TRANSFERRED OR RESOLD EXCEPT AS PERMITTED UNDER THE SECURITIES ACT OF 1933, AS AMENDED, AND THE APPLICABLE STATE SECURITIES LAWS PURSUANT TO A REGISTRATION OR EXEMPTION THEREFROM.

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FIRST INDUSTRIAL, L.P.  
THIRD AMENDED AND RESTATED  
LIMITED PARTNERSHIP AGREEMENT

The undersigned, being the sole general partner of First Industrial, L.P. (the "Partnership"), a limited partnership formed under the Delaware Revised Uniform Limited Partnership Act, does hereby amend and restate the Second Partnership Agreement (as described below) as follows:

R E C I T A L S:

A. The Partnership was formed pursuant to a Certificate of Limited Partnership filed on November 23, 1993 with the Secretary of State of the State of Delaware under the name "ProVest, L.P." and a Limited Partnership Agreement dated November 23, 1993 (the "Original Partnership Agreement").

B. The Original Partnership Agreement was amended and restated as of January 28, 1994 (such amended and restated partnership agreement, the "Prior Partnership Agreement").

C. A Second Amended and Restated Limited Partnership Agreement was executed as of June 30, 1994 (the "Second Partnership Agreement").

D. The General Partner desires to amend and restate the Second Partnership Agreement (as amended to date) to (i) reflect the interests granted to the Class B Limited Partner (as hereinafter defined), (ii) to set forth the understandings and agreements, including certain rights and obligations, among the Partners (as hereinafter defined) with respect to the Partnership.

ARTICLE I - INTERPRETIVE PROVISIONS

Section 1.1 Certain Definitions. The following terms have the definitions hereinafter indicated whenever used in this Agreement with initial capital letters:

Act: The Delaware Revised Uniform Limited Partnership Act, ss.ss. 17-101 to 17-1109 of the Delaware Code Annotated, Title 6, as amended from time to time.

Additional Limited Partner: A Person admitted to the Partnership as a Limited Partner in accordance with Section 8.7 hereof and who is shown as such on the books and records of the Partnership.

Adjusted Capital Account: With respect to any Partner, such Partner's Capital Account maintained in accordance with Section 4.4 hereof, as of the end of the relevant Fiscal Year of the Partnership, after giving effect to the following adjustments:

(A) Credit to such Capital Account such Partner's share of Partnership Minimum Gain determined in accordance with Treasury Regulations Section 1.704-2(g)(1) and such Partner's share of Partner Minimum Gain determined in accordance with Treasury Regulations Section 1.704-2(i)(5).

(B) Debit to such Capital Account the items described in Treasury Regulations Section 1.704-1(b)(2)(ii)(d)(4), (5) and (6).

The foregoing definition of "Adjusted Capital Account" is intended to comply with the provisions of Treasury Regulations Sections 1.704-1(b)(2)(ii) and 1.704-2 and shall be interpreted consistently therewith.

Adjusted Capital Account Deficit: With respect to any Partner, the deficit balance, if any, in that Partner's Adjusted Capital Account as of the end of the relevant Fiscal Year of the Partnership.

Affiliate: With respect to any referenced Person, (i) a member of such Person's immediate family; (ii) any Person who directly or indirectly owns, controls or holds the power to vote ten percent (10%) or more of the outstanding voting securities of the Person in question; (iii) any Person ten percent (10%) or more of whose outstanding securities are directly or indirectly owned, controlled, or held with power to vote by the Person in question; (iv) any Person directly or indirectly controlling, controlled by, or under direct or indirect common control with the Person in question; (v) if the Person in question is a corporation, any executive officer or director of such Person or of any corporation directly or indirectly controlling such Person; and (vi) if the Person in question is a partnership, any general partner of the partnership or any limited partner owning or controlling ten percent (10%) or more of either the capital or profits interest in such partnership. As used herein, "control" shall mean the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a Person, whether through the ownership of voting securities, by contract, or otherwise.

Aggregate Protected Amount: With respect to the Contributor Partners, as a group, the aggregate balances of the Protected Amounts, if any, of the Contributor Partners, as determined on the date in question.

Agreed Value: In the case of any (i) Contributed Property acquired pursuant to a Contribution Agreement, the value (exclusive of any related indebtedness assumed by the Partnership or to which such Contributed Property is taken subject) of such Contributed Property as set forth in such Contribution Agreement or, if no such value is set forth for such Contributed Property, the portion of the consideration provided for under such Contribution Agreement allocable to such Contributed Property (exclusive of any related indebtedness assumed by the Partnership or to which such Contributed Property is taken subject), as determined by the General Partner in its reasonable discretion, (ii) Contributed Property acquired other than pursuant to a Contribution Agreement, the fair market value of such property at the time of contribution, as determined by the General Partner using such method of valuation as it may adopt in its reasonable discretion and (iii) property distributed to a Partner by the Partnership, the Partnership's Book Value of such property at the time such property is distributed, reduced by any indebtedness either assumed by such Partner upon such distribution or to which such property is subject at the time of distribution as determined under Code Section 752 and the Treasury Regulations thereunder.

Agreement: This Third Amended and Restated Limited Partnership Agreement and all Exhibits attached hereto, as the same may be amended or restated and in effect from time to time.

Assignee: Any Person to whom one or more Partnership Units have been transferred as permitted under this Agreement but who has not become a Substituted Limited Partner in accordance with the provisions hereof.

Bankruptcy: Either (i) a referenced Person's making an assignment for the benefit of creditors, (ii) the filing by a referenced Person of a voluntary petition in bankruptcy, (iii) a referenced Person's being adjudged insolvent or having entered against him an order for relief in any bankruptcy or insolvency proceeding, (iv) the filing by a referenced Person of an answer seeking any reorganization, composition, readjustment, liquidation, dissolution, or



similar relief under any law or regulation, (v) the filing by a referenced Person of an answer or other pleading admitting or failing to contest the material allegations of a petition filed against him in any proceeding of reorganization, composition, readjustment, liquidation, dissolution, or for similar relief under any statute, law or regulation or (vi) a referenced Person's seeking, consenting to, or acquiescing in the appointment of a trustee, receiver or liquidator for all or substantially all of his property (or court appointment of such trustee, receiver or liquidator).

**Book-Tax Disparity:** With respect to any item of Contributed Property, or property the Book Value of which has been adjusted in accordance with Section 4.4(D), as of the date of determination, the difference between the Book Value of such property and the adjusted basis of such property for federal income tax purposes.

**Book Value:** With respect to any Contributed Property, the Agreed Value of such property reduced (but not below zero) by all Depreciation with respect to such property properly charged to the Partners' Capital Accounts and with respect to any other asset, the asset's adjusted basis for federal income tax purposes; provided, however, (a) the Book Value of all Partnership Assets shall be adjusted in the event of a revaluation of Partnership Assets in accordance with Section 4.4(D) hereof, (b) the Book Value of any Partnership Asset distributed to any Partner shall be the fair market value of such asset on the date of distribution as determined by the General Partner and (c) such Book Value shall be adjusted by the Depreciation taken into account with respect to such asset for purposes of computing Profits and Losses.

**Capital Account:** The account maintained by the Partnership for each Partner described in Section 4.4 hereof.

**Capital Contribution:** The total amount of cash or cash equivalents and the Agreed Value of Contributed Property which a Partner contributes or is deemed to contribute to the Partnership pursuant to the terms of this Agreement.

**Cash Payment:** The payment to a Redeeming Party of a cash amount determined by multiplying (i) the number of Partnership Units tendered for redemption by such Redeeming Party pursuant to a validly proffered Redemption Notice by (ii) the Unit Value on the date the Redemption Notice is received by the General Partner.

**Class B Limited Partner:** First Industrial Realty Trust, Inc., a Maryland corporation, in its capacity as a limited partner in the Partnership holding Class B Units.

**Class B Unit:** The Partnership Interest held by the Class B Limited Partner, each full Class B Unit representing a \$2,500 Capital Contribution.

**Class B Redemption:** As defined in Section 9.1 hereof.

**Class B Redemption Price:** As defined in Section 9.1 hereof.

**Certificate:** The Partnership's Certificate of Limited Partnership filed in the office of the Secretary of State of the State of Delaware, as amended from time to time.

**Code:** The Internal Revenue Code of 1986, as amended from time to time.

Consent: Either the written consent of a Person or the affirmative vote of such Person at a meeting duly called and held pursuant to this Agreement, as the case may be, to do the act or thing for which the consent is required or solicited, or the act of granting such consent, as the context may require.

Contributed Property: Each property or other asset (excluding cash and cash equivalents) contributed or deemed contributed to the Partnership (whether as a result of a Code Section 708 termination or otherwise).

Contribution Agreements: Those certain agreements among one or more of the Initial Limited Partners (or Persons in which such Initial Limited Partners have direct or indirect interests) and the Partnership pursuant to which, inter alia, the Initial Limited Partners (or such Persons), directly or indirectly are contributing property to the Partnership on the Effective Date in exchange for Partnership Units.

Contributor Partner(s): That or those Limited Partner(s) listed as Contributor Partner(s) on Exhibit 1D attached hereto and made a part hereof, as such Exhibit may be amended from time to time by the General Partner, whether by express amendment to this Partnership Agreement or by execution of a written instrument by and between any additional Contributor Partner(s) being affected thereby and the General Partner, acting on behalf of the Partnership and without the prior consent of the Limited Partners (whether or not Contributor Partners other than the Contributor Partner(s) being affected thereby). For purposes hereof, any successor, assignee, or transferee of the Interest of a Contributor Partner (other than the Partnership in connection with a redemption pursuant to Article IX hereof) shall be considered a Contributor Partner for purposes hereof.

Conversion Factor: The factor applied for converting Partnership Units to REIT Shares, which shall initially be 1.0; provided, however, in the event that the REIT (i) declares or pays a dividend on its outstanding REIT Shares in REIT Shares or makes a distribution to all holders of its outstanding REIT Shares in REIT Shares, (ii) subdivides its outstanding REIT Shares or (iii) combines its outstanding REIT Shares into a smaller number of REIT Shares, the Conversion Factor shall be adjusted by multiplying the Conversion Factor by a fraction, the numerator of which shall be the number of REIT Shares issued and outstanding on the record date (assuming for such purposes that such dividend, distribution, subdivision or combination has occurred as of such time), and the denominator of which shall be the actual number of REIT Shares (determined without the above assumption) issued and outstanding on the record date for such dividend, distribution, subdivision or combination; provided further, in the event that the Partnership (a) declares or pays a distribution on the outstanding Partnership Units in Partnership Units or makes a distribution to all Partners in Partnership Units, (b) subdivides the outstanding Partnership Units or (c) combines the outstanding Partnership Units into a smaller number of Partnership Units, the Conversion Factor shall be adjusted by multiplying the Conversion Factor by a fraction, the numerator of which shall be the actual number of Partnership Units issued and outstanding on the record date (determined without giving effect to such dividend, distribution, subdivision or combination), and the denominator of which shall be the actual number of Partnership Units (determined after giving effect to such dividend, distribution, subdivision or combination) issued and outstanding on such record date. Any adjustment to the Conversion Factor shall become effective immediately after the effective date of such event retroactive to the record date, if any, for such event.

Depreciation: For each Fiscal Year or other period, an amount equal to the depreciation, amortization or other cost recovery deduction allowable with respect to an asset for such year or other period, except that if the Book Value of an asset differs from its adjusted basis for federal income tax purposes at the beginning of such year or other period, Depreciation shall be adjusted as necessary so as to be an amount which bears the same ratio to such beginning Book Value as the federal income tax depreciation, amortization, or other cost recovery deduction for such year or other period bears to the beginning adjusted tax basis; provided, however, that if the federal income tax depreciation, amortization or other cost recovery deduction for such year or other period is zero, Depreciation

for such year or other period shall be determined with reference to such beginning Book Value using any reasonable method approved by the General Partner.

Deemed Original Issue Date: (i) in the case of any Class B Unit which is part of the first issuance of such units or part of a subsequent issuance of such units prior to July 1, 1997, the date of such first issuance and (ii) in the case of any such unit which is part of a subsequent issuance of such units on or after July 1, 1997, the later of (x) July 1, 1997 and (y) the last Distribution Period Commencement Date which precedes the date of issuance of such unit and which succeeds the last Distribution Period for which full cumulative Priority Return Amounts have been paid; provided, however, that, in the case of any such unit which is part of a subsequent issuance on or after July 1, 1997, the date of issuance of which falls between (a) the record date for dividends payable on the Series B Preferred Shares on the first succeeding dividend payment date on such stock and (b) such dividend payment date, the "Deemed Original Issue Date" means the date of the Distribution Period Commencement Date that immediately follows the date of issuance of such unit.

Distributable Cash: with respect to any period, and without duplication:

(i) all cash receipts of the Partnership during such period from all sources;

(ii) less all cash disbursements of the Partnership during such period, including, without limitation, disbursements for operating expenses, taxes, debt service (including, without limitation, the payment of principal, premium and interest), redemption of Partnership Interests and capital expenditures;

(iii) less amounts added to reserves in the sole discretion of the General Partner, plus amounts withdrawn from reserves in the reasonable discretion of the General Partner.

Distribution Period: The Initial Distribution Period and each quarterly distribution period thereafter, commencing on January 1, April 1, July 1 and October 1 of each year and ending on and including the day preceding the next Distribution Period Commencement Date.

Distribution Period Commencement Date: January 1, April 1, July 1 and October 1 of each year, commencing on July 1, 1997.

Effective Date: June 30, 1994.

ERISA: The Employee Retirement Income Security Act of 1976, as amended from time to time.

First Highland Limited Partners: Those Limited Partners identified on Exhibit 1A hereto.

First Highland Properties: Those certain properties acquired by the Partnership pursuant to that certain Contribution Agreement, dated as of March 19, 1996.

First Highland Units: The Partnership Units issued to the First Highland Limited Partners in connection with the acquisition of the First Highland Properties by the Partnership.

Fiscal Year: The calendar year or such other twelve (12) month period designated by the General Partner.

General Partner: First Industrial Realty Trust, Inc., a Maryland corporation, and its respective successor(s) who or which become Successor General Partner(s) in accordance with the terms of this Agreement.

General Partner Interest: A Partnership Interest held by the General Partner that is a general partner interest. A General Partner Interest may be expressed as a number of Partnership Units.

Initial Distribution Period: The period from the Deemed Original Issue Date for a Class B Unit to, but excluding July 1, 1997.

Involuntary Withdrawal: As to any (i) individual shall mean such individual's death, incapacity or adjudication of incompetence, (ii) corporation shall mean its dissolution or revocation of its charter (unless such revocation is promptly corrected upon notice thereof), (iii) partnership shall mean the dissolution and commencement of winding up of its affairs, (iv) trust shall mean the termination of the trust (but not the substitution of trustees), (v) estate shall mean the distribution by the fiduciary of the estate's complete interest in the Partnership and (vi) any Partner shall mean the Bankruptcy of such Partner.

IRS: The Internal Revenue Service, which administers the internal revenue laws of the United States.

LB Closing Date: January 31, 1997.

LB Partners: The persons identified on Exhibit 1C hereto, following their admission to the Partnership as Additional Limited Partners.

LB Units: The Partnership Units issued to the LB Partners in connection with the acquisition by the Partnership of certain properties on the LB Closing Date.

Limited Partner: Those Persons listed as such on Exhibit 1B attached hereto and made a part hereof, as such Exhibit may be amended from time to time, including any Person who becomes a Substituted Limited Partner or an Additional Limited Partner in accordance with the terms of this Agreement; provided such term shall not include the Class B Limited Partner.

Limited Partner Interest: A Partnership Interest held by a Limited Partner that is a limited partner interest. A Limited Partner Interest may be expressed as a number of Partnership Units.

Nonrecourse Liability: A liability as defined in Treasury Regulations Section 1.704-2(b)(3).

Notice: A writing containing the information required by this Agreement to be communicated to a Person and delivered to such Person in accordance with Section 12.4; provided, however, that any written communication containing such information actually received by such Person shall constitute Notice for all purposes of this Agreement.

Partner Minimum Gain: The gain (regardless of character) which would be realized by the Partnership if property of the Partnership subject to a partner nonrecourse debt (as such term is defined in Treasury Regulation Section 1.704-2(b)(4)) were disposed of in full satisfaction of such debt on the relevant date. The adjusted basis of property subject to more than one partner nonrecourse debt shall be allocated in a manner consistent with the allocation of basis for purposes of determining Partnership Minimum Gain hereunder. Partner Minimum Gain shall

be computed hereunder using the Book Value, rather than the adjusted tax basis, of the Partnership property in accordance with Treasury Regulations Section 1.704-2(d)(3).

**Partner Nonrecourse Deductions:** With respect to any partner nonrecourse debt (as such term is defined in Treasury Regulation Section 1.704-2(b)(4)), the increase in Partner Minimum Gain during the tax year plus any increase in Partner Minimum Gain for a prior tax year which has not previously generated a Partner Nonrecourse Deduction hereunder. The determination of which Partnership items constitute Partner Nonrecourse Deductions shall be made in a manner consistent with the manner in which Partnership Nonrecourse Deductions are determined hereunder.

**Partners:** The General Partner, the Class B Limited Partner and the Limited Partners as a group. The term "Partner" shall mean a General Partner, the Class B Limited Partner or a Limited Partner. Such terms shall be deemed to include such other Persons who become Partners pursuant to the terms of this Agreement.

**Partnership:** The Delaware limited partnership referred to herein as First Industrial, L.P., as such partnership may from time to time be constituted.

**Partnership Assets:** At any particular time, any assets or property (tangible or intangible, choate or inchoate, fixed or contingent) owned by the Partnership.

**Partnership Interest or Interest:** As to any Partner, such Partner's ownership interest in the Partnership and including such Partner's right to distributions under this Agreement and any other rights or benefits which such Partner has in the Partnership, together with any and all obligations of such Person to comply with the terms and provisions of this Agreement. A Partnership Interest may be expressed as a number of Partnership Units.

**Partnership Minimum Gain:** The aggregate gain (regardless of character) which would be realized by the Partnership if all of the property of the Partnership subject to nonrecourse debt (other than partner nonrecourse debt as such term is defined in Treasury Regulations Section 1.704-2(b)(4)) were disposed of in full satisfaction of such debt and for no other consideration on the relevant date. In the case of any Nonrecourse Liability of the Partnership which is not secured by a mortgage with respect to any specific property of the Partnership, any and all property of the Partnership to which the holder of said liability has recourse shall be treated as subject to such Nonrecourse Liability for purposes of the preceding sentence. Partnership Minimum Gain shall be computed separately for each Nonrecourse Liability of the Partnership. For this purpose, the adjusted basis of property subject to two or more liabilities of equal priority shall be allocated among such liabilities in proportion to the outstanding balance of such liabilities, and the adjusted basis of property subject to two or more liabilities of unequal priority shall be allocated to the liability of inferior priority only to the extent of the excess, if any, of the adjusted basis of such property over the outstanding balance of the liability of superior priority. Partnership Minimum Gain shall be computed hereunder using the Book Value, rather than the adjusted tax basis, of the Partnership property in accordance with Treasury Regulations Section 1.704-2(d)(3).

**Partnership Nonrecourse Deductions:** The amount of Partnership deductions equal to the increase, if any, in the amount of the aggregate Partnership Minimum Gain during the tax year (plus any increase in Partnership Minimum Gain for a prior tax year which has not previously generated a Partnership Nonrecourse Deduction) reduced (but not below zero) by the aggregate distributions made during the tax year of the proceeds of a Nonrecourse Liability of the Partnership which are attributable to an increase in Partnership Minimum Gain within the meaning of Treasury Regulations Section 1.704-2(d). The Partnership Nonrecourse Deductions for a Partnership tax year shall consist first of depreciation or cost recovery deductions with respect to each property of the

Partnership giving rise to such increase in Partnership Minimum Gain on a pro rata basis to the extent of each such increase, with any excess made up pro rata of all items of deduction.

Partnership Unit: A fractional, undivided share of the Partnership Interests of all Partners (other than the Class B Limited Partner) issued pursuant to Section 4.1 hereof. As of the date of this Agreement the aggregate number of Partnership Units outstanding is [19,018,832], with each such Partnership Unit representing approximately a [0.0000053%] Percentage Interest in the Partnership.

Percentage Interest: As to any Partner, the percentage in the Partnership, as determined by dividing the Partnership Units then owned by such Partner by the total number of Partnership Units then outstanding, as the same may be automatically adjusted from time to time to reflect the issuance and redemption of Partnership Units in accordance with this Agreement, without requiring the amendment of Exhibit 1B to reflect any such issuance or redemption.

Person: Any individual, partnership, corporation, trust or other entity.

Priority Return Amount: With respect to each Class B Unit, (i) for the Initial Distribution Period, the pro rata portion of the amount referred to in clause (ii) of this definition, computed in accordance with the last sentence of Section 5.3(A) hereof, and (ii) for each Distribution Period thereafter, an amount equal to 2.1875% of that portion of the Capital Contribution of the Class B Limited Partner allocable to each such unit. Priority Return Amounts on each Class B Unit that are not distributed as provided in Section 5.3(A) shall be cumulative from the Deemed Original Issue Date of such unit.

Profits and Losses: For each Fiscal Year or other period, an amount equal to the Partnership's taxable income or loss (as the case may be) for such year or period, determined in accordance with Code Section 703(a) (for this purpose, all items of income, gain, loss or deduction required to be stated separately pursuant to Code Section 703(a)(1) shall be included in taxable income or loss), with the following adjustments:

a. Any income of the Partnership that is exempt from federal income tax and not otherwise taken into account in computing Profits or Losses pursuant to this definition shall be added to such taxable income or loss;

b. Any expenditures of the Partnership described in Code Section 705(a)(2)(B) or treated as Code Section 705(a)(2)(B) expenditures pursuant to Treasury Regulations Section 1.704-1(b)(2)(iv)(i), and not otherwise taken into account in computing Profits or Losses pursuant to this definition, shall be subtracted from such taxable income or loss;

c. Gain or loss resulting from any disposition of Partnership property with respect to which gain or loss is recognized for federal income tax purposes shall be computed by reference to the Book Value of the property disposed of notwithstanding that the adjusted tax basis of such property differs from such Book Value;

d. In lieu of the depreciation, amortization, and other cost recovery deductions taken into account in computing such taxable income or loss, there shall be taken into account Depreciation for such Fiscal Year or other period, computed in accordance with the definition of "Depreciation" herein; and

e. In the event that any item of income, gain, loss or deduction that has been included in the initial computation of Profit or Loss is subject to the special allocation rules of Sections 5.2(C) and 5.2(D), Profit or Loss shall be recomputed without regard to such item.

**Protected Amount:** With respect to any Contributor Partner, the amount set forth opposite the name of such Contributor Partner on Exhibit 1D attached hereto and made a part hereof, as such Exhibit may be modified from time to time by an amendment to the Partnership Agreement or by execution of a written instrument by and between the Contributor Partner being affected thereby and the General Partner, acting on behalf of the Partnership and without the prior written consent of the Limited Partners (whether or not Contributor Partners other than the Contributor Partner being affected thereby).

**Record Date:** The record date established by the General Partner for distributions pursuant to Section 5.3 hereof, which record date shall be the same as the record date established by the General Partner for a distribution to its stockholders of some or all of its portion of such distribution.

**Recourse Liabilities:** The amount of liabilities owed by the Partnership (other than nonrecourse liabilities and liabilities to which Partner Nonrecourse Deductions are attributable in accordance with Treasury Regulations Section 1.704-2(i)) owned by the Partnership.

**Redeeming Party:** A Limited Partner or Assignee (other than the General Partner) who tenders Partnership Units for redemption pursuant to a Redemption Notice.

**Redemption Date:** The date for redemption of Partnership Units as set forth in Section 9.2.

**Redemption Effective Date:** The first date on which a Redeeming Party may elect to redeem Partnership Units, which date shall be the later of (i) the first anniversary of the execution of this Agreement and (ii) the effective date of any registration statement filed by the Partnership with respect to the REIT Shares to be issued upon redemption of Partnership Units by a Redeeming Party.

**Redemption Notice:** A Notice to the General Partner by a Redeeming Party, substantially in the form attached as Exhibit 2, pursuant to which the Redeeming Party requests the redemption of Partnership Units in accordance with Article IX.

**Redemption Obligation:** The obligation of the Partnership to redeem the Partnership Units as set forth in Section 9.1(A).

**Redemption Period:** The 45-day period immediately following the filing with the SEC by the General Partner of an annual report of the General Partner on Form 10-K or a quarterly report of the General Partner on Form 10-Q or such other period or periods as the General Partner may otherwise determine.

**Redemption Price:** As defined in Section 8.4 hereof.

**Redemption Restriction:** A restriction on the ability of the Partnership to redeem the Partnership Units as set forth in Section 9.1(A).

Registration Rights Agreement: A Registration Rights Agreement, substantially in the form of Exhibit 3 hereto, pursuant to which First Industrial will agree to register under the Securities Act of 1933, as amended, REIT Shares issued in connection with Share Payments made under Article IX hereof.

REIT: A real estate investment trust, as defined in Code Section 856.

REIT Charter: The Articles of Incorporation of First Industrial filed with the Department of Assessments and Taxation of the State of Maryland on August 10, 1993, as the same may be amended or restated and in effect from time to time.

REIT Share: A share of common stock representing an ownership interest in the General Partner.

REIT Share Rights: Rights to acquire additional REIT Shares issued to all holders of REIT Shares, whether in the form of rights, options, warrants or convertible or exchangeable securities, to the extent the same have been issued without additional consideration after the initial acquisition of such REIT Shares.

SEC: The Securities and Exchange Commission.

Series B Preferred Shares: 8 3/4% Series B Cumulative Preferred Stock of First Industrial Realty Trust, Inc.

Share Payment: The payment to a Redeeming Party of a number of REIT Shares determined by multiplying (i) the number of Partnership Units tendered for redemption by such Redeeming Party pursuant to a validly proffered Redemption Notice by (ii) the Conversion Factor. In the event the General Partner grants any REIT Share Rights prior to such payment, any Share Payment shall include for the Redeeming Party his ratable share of such REIT Share Rights other than REIT Share Rights which have expired.

Subsidiary: With respect to any Person, any corporation or other entity of which a majority of (i) the voting power of the voting equity securities or (ii) the outstanding equity interests is owned, directly or indirectly, by such Person.

Substituted Limited Partner: That Person or those Persons admitted to the Partnership as substitute Limited Partner(s), in accordance with the provisions of this Agreement. A Substituted Limited Partner, upon his admission as such, shall succeed to the rights, privileges and liabilities of his predecessor in interest as a Limited Partner.

Successor General Partner: Any Person who is admitted to the Partnership as substitute General Partner pursuant to this Agreement. A Successor General Partner, upon its admission as such, shall succeed to the rights, privileges and liabilities of its predecessor in interest as General Partner, in accordance with the provisions of the Act.

Tax Matters Partner: The General Partner or such other Partner who becomes Tax Matters Partner pursuant to the terms of this Agreement.

Terminating Capital Transaction: The sale or other disposition of all or substantially all of the Partnership Assets or a related series of transactions that, taken together, result in the sale or other disposition of all or substantially all of the Partnership Assets.



**Threshold Percentage:** A percentage equal to 85% on the LB Closing Date and thereafter adjusted upwards (but not downwards) immediately prior to each solicitation of any vote of, or the seeking of any consent, approval or waiver from, the Limited Partners generally, to the sum of (i) 85% and (ii) the number of percentage points equal to the positive difference, if any, between (a) the aggregate Percentage Interest represented by the LB Units immediately following the LB Closing Date and (b) the aggregate Percentage Interest represented by the LP Units immediately prior to any such solicitation. For example, if on the LB Closing Date the LB Units represent a 10% aggregate Percentage Interest, and if immediately prior to a solicitation the Threshold Percentage is 85% and the aggregate Percentage Interest represented by the LB Units is 8%, the Threshold Percentage would be increased to 87% ( $85\% = (10\% - 8\%)$ ).

**Transfer:** With respect to any Partnership Unit shall mean a transaction in which a Partner assigns his Partnership Interest to another Person and includes any sale, assignment, gift, pledge, mortgage, exchange, hypothecation, encumbrance or other disposition by law or otherwise; provided, however, the redemption of any Partnership Interest pursuant to Article IX hereof shall not constitute a "transfer" for purposes hereof.

**Transfer Restriction Date:** June 23, 1995.

**Treasury Regulations:** The Income Tax Regulations promulgated under the Code, as such regulations may be amended from time to time (including corresponding provisions of succeeding regulations).

**Unit Value:** With respect to any Partnership Unit, the average of the daily market price for a REIT Share for the ten (10) consecutive trading days immediately preceding the date of receipt of a Redemption Notice by the General Partner multiplied by the Conversion Factor. If the REIT Shares are traded on a securities exchange or the NASDAQ-National Market System, the market price for each such trading day shall be the reported last sale price on such day or, if no sales take place on such day, the average of the closing bid and asked prices on such day. If the REIT Shares are not traded on a securities exchange or the NASDAQ-National Market System, the market price for each such trading day shall be determined by the General Partner using any reasonable method of valuation. If a Share Payment would include any REIT Share Rights, the value of such REIT Share Rights shall be determined by the General Partner using any reasonable method of valuation, taking into account the Unit Value determined hereunder and the factors used to make such determination and the value of such REIT Share Rights shall be included in the Unit Value.

**Voting Termination Date:** The first date after the LB Closing Date on which either (i) the General Partner holds 90% or more of all Partnership Units or (ii) the aggregate number of Partnership Units held by the General Partner and the LB Partners is less than the product of the Threshold Percentage and the total number of Partnership Units then outstanding.

**Section 1.2 Rules of Construction.** The following rules of construction shall apply to this Agreement:

(A) All section headings in this Agreement are for convenience of reference only and are not intended to qualify the meaning of any section.

(B) All personal pronouns used in this Agreement, whether used in the masculine, feminine or neuter gender, shall include all other genders, the singular shall include the plural, and vice versa, as the context may require.

(C) Each provision of this Agreement shall be considered severable from the rest, and if any provision of this Agreement or its application to any Person or circumstances shall be held invalid and contrary to any existing or future law or unenforceable to any extent, the remainder of this Agreement and the application of any other provision to any Person or circumstances shall not be affected thereby and shall be interpreted and enforced to the greatest extent permitted by law so as to give effect to the original intent of the parties hereto.

(D) Unless otherwise specifically and expressly limited in the context, any reference herein to a decision, determination, act, action, exercise of a right, power or privilege, or other procedure by the General Partner shall mean and refer to the decision, determination, act, action, exercise or other procedure by the General Partner in its sole and absolute discretion.

## ARTICLE II - CONTINUATION

Section 2.1 Continuation. The Partners hereby continue the Partnership as a limited partnership under the Act. The General Partner shall take all action required by law to perfect and maintain the Partnership as a limited partnership under the Act and under the laws of all other jurisdictions in which the Partnership may elect to conduct business, including but not limited to the filing of amendments to the Certificate with the Delaware Secretary of State, and qualification of the Partnership as a foreign limited partnership in the jurisdictions in which such qualification shall be required, as determined by the General Partner. The General Partner shall also promptly register the Partnership under applicable assumed or fictitious name statutes or similar laws.

Section 2.2 Name. The name of the Partnership is First Industrial, L.P. The General Partner may adopt such assumed or fictitious names as it deems appropriate in connection with the qualifications and registrations referred to in Section 2.1.

Section 2.3 Place of Business; Registered Agent. The principal office of the Partnership is located at 150 N. Wacker Drive, Suite 150, Chicago, Illinois 60606, which office may be changed to such other place as the General Partner may from time to time designate. The Partnership may establish offices for the Partnership within or without the State of Delaware as may be determined by the General Partner. The initial registered agent for the Partnership in the State of Delaware is The Corporation Trust Company, whose address is c/o Corporation Trust Center, 1209 Orange Street, Wilmington, Delaware 19801.

## ARTICLE III - BUSINESS PURPOSE

Section 3.1 Business. The business of the Partnership shall be (i) conducting any business that may be lawfully conducted by a limited partnership pursuant to the Act including, without limitation, acquiring, owning, managing, developing, leasing, marketing, operating and, if and when appropriate, selling, industrial properties, (ii) entering into any partnership, joint venture or other relationship to engage in any of the foregoing or the ownership of interests in any entity engaged in any of the foregoing, (iii) making loans, guarantees, indemnities or other financial accommodations and borrowing money and pledging its assets to secure the repayment thereof, (iv) to do any of the foregoing with respect to any Affiliate or Subsidiary and (v) doing anything necessary or incidental to the foregoing; provided, however, that business of the Partnership shall be limited so as to permit the General

Partner to elect and maintain its status as a REIT (unless the General Partner determines no longer to qualify as a REIT).

Section 3.2 Authorized Activities. In carrying out the purposes of the Partnership, but subject to all other provisions of this Agreement, the Partnership is authorized to engage in any kind of lawful activity, and perform and carry out contracts of any kind, necessary or advisable in connection with the accomplishment of the purposes and business of the Partnership described herein and for the protection and benefit of the Partnership; provided that the General Partner shall not be obligated to cause the Partnership to take, or refraining from taking, any action which, in the judgment of the General Partner, (i) could adversely affect the ability of the General Partner to qualify and continue to qualify as a REIT, (ii) could subject the General Partner to additional taxes under Code Section 857 or 4981 or (iii) could violate any law or regulation of any governmental body or agency having jurisdiction over the General Partner or its securities.

#### ARTICLE IV - CAPITAL CONTRIBUTIONS

##### Section 4.1 Capital Contributions.

(A) Upon the contribution to the Partnership of property in accordance with a Contribution Agreement, Partnership Units shall be issued in accordance with, and as contemplated by, such Contribution Agreement, and the Persons receiving such Partnership Units shall become Partners and shall be deemed to have made a Capital Contribution as set forth on Exhibit 1. Exhibit 1 also sets forth the initial number of Partnership Units owned by each Partner and the Percentage Interest of each Partner, which Percentage Interest shall be adjusted from time to time by the General Partner to reflect the issuance of additional Partnership Units, the redemption of Partnership Units, additional Capital Contributions and similar events having an effect on a Partner's Percentage Interest. Except as set forth in Section 4.2 (regarding issuance of additional Partnership Units) or Section 7.6 (regarding withholding obligations), no Partner shall be required under any circumstances to contribute to the capital of the Partnership any amount beyond that sum required pursuant to this Article IV.

(B) Anything in the foregoing Section 4.1(A) or elsewhere in this Agreement notwithstanding, the Partnership Units held by the General Partner shall, at all times, be deemed to be General Partner units and shall constitute the General Partner Interest.

##### Section 4.2 Additional Partnership Interests.

(A) The Partnership may issue additional limited partnership interests in the form of Partnership Units for any Partnership purpose at any time or from time to time, to any Partner or other Person (other than the General Partner, except in accordance with Section 4.2(B) below).

(B) The Partnership also may from time to time issue to the General Partner additional Partnership Units or other Partnership Interests in such classes and having such designations, preferences and relative rights (including preferences and rights senior to the existing Limited Partner Interests) as shall be determined by the General Partner in accordance with the Act and governing law. Except as provided in Article IX, any such issuance of Partnership Units or Partnership Interests to the General Partner shall be conditioned upon (i) the undertaking by the General Partner of a related issuance of its capital stock (with such shares having designations, rights and preferences such that the economic rights of the holders of such capital stock are substantially similar to the rights

of the additional Partnership Interests issued to the General Partner) and the General Partner making a Capital Contribution (a) in an amount equal to the net proceeds raised in the issuance of such capital stock, in the event such capital stock is sold for cash or cash equivalents or (b) the property received in consideration for such capital stock, in the event such capital stock is issued in consideration for other property or (ii) the issuance by the General Partner of capital stock under any stock option or bonus plan and the General Partner making a Capital Contribution in an amount equal to the exercise price of the option exercised pursuant to such stock option or other bonus plan.

(C) Except as contemplated by Article IX (regarding redemptions) or Section 4.2(B), the General Partner shall not issue any (i) additional REIT Shares, (ii) rights, options or warrants containing the right to subscribe for or purchase REIT Shares or (iii) securities convertible or exchangeable into REIT Shares (collectively, "Additional REIT Securities") other than to all holders of REIT Shares, pro rata, unless (x) the Partnership issues to the General Partner (i) Partnership Interests, (ii) rights, options or warrants containing the right to subscribe for or purchase Partnership Interests or (iii) securities convertible or exchangeable into Partnership Interests such that the General Partner receives an economic interest in the Partnership substantially similar to the economic interest in the General Partner represented by the Additional REIT Securities and (y) the General Partner contributes to the Partnership the net proceeds from, or the property received in consideration for, the issuance of the Additional REIT Securities and the exercise of any rights contained in any Additional REIT Securities.

Section 4.3 No Third Party Beneficiaries. The foregoing provisions of this Article IV are not intended to be for the benefit of any creditor of the Partnership or other Person to whom any debts, liabilities or obligations are owed by (or who otherwise has any claim against) the Partnership or any of the Partners and no such creditor or other Person shall obtain any right under any such foregoing provision against the Partnership or any of the Partners by reason of any debt, liability or obligation (or otherwise).

#### Section 4.4 Capital Accounts.

(A) The Partnership shall establish and maintain a separate Capital Account for each Partner in accordance with Code Section 704 and Treasury Regulations Section 1.704-1(b)(2)(iv). The Capital Account of each Partner shall be credited with:

(1) the amount of all Capital Contributions made to the Partnership by such Partner in accordance with this Agreement; plus

(2) all income and gain of the Partnership computed in accordance with this Section 4.4 and allocated to such Partner pursuant to Article V (including for purposes of this Section 4.4(A), income and gain exempt from tax);

and shall be debited with the sum of:

(1) all losses or deductions of the Partnership computed in accordance with this Section 4.4 and allocated to such Partner pursuant to Article V,

(2) such Partner's distributive share of expenditures of the Partnership described in Code Section 705(a)(2)(B), and

(3) all cash and the Agreed Value of any property actually distributed or deemed distributed by the Partnership to such Partner pursuant to the terms of this Agreement.

Any reference in any section or subsection of this Agreement to the Capital Account of a Partner shall be deemed to refer to such Capital Account as the same may be credited or debited from time to time as set forth above.

(B) For purposes of computing the amount of any item of income, gain, deduction or loss to be reflected in the Partners' Capital Accounts, the determination, recognition and classification of each such item shall be the same as its determination, recognition and classification for federal income tax purposes, determined in accordance with Code Section 703(a), with the following adjustments:

(1) any income, gain or loss attributable to the taxable disposition of any Partnership Asset shall be determined by treating the adjusted basis of such property as of the date of such disposition as equal to the Book Value of such property as of such date;

(2) the computation of all items of income, gain, loss and deduction shall be made without regard to any Code Section 754 election that may be made by the Partnership, except to the extent required in accordance with the provisions of Treasury Regulations Section 1.704-1(b)(2)(iv)(m);

(3) in lieu of depreciation, amortization and other cost recovery deductions taken into account in computing Profit and Loss, there shall be taken into account Depreciation for such Fiscal Year;

(4) in the event the Book Value of any Partnership Asset is adjusted pursuant to Section 4.4(D) below, the amount of such adjustment shall be treated as gain or loss from the disposition of such asset.

(C) Any transferee of a Partnership Interest shall succeed to a pro rata portion of the transferor's Capital Account transferred unless such Transfer causes a Code Section 708 termination of the Partnership, in which case the Book Value of all Partnership Assets shall be adjusted immediately prior to the deemed distribution pursuant thereto as provided in Section 4.4(D).

(D) Consistent with the provisions of Treasury Regulations Section 1.704-1(b)(2)(iv)(f), (i) immediately prior to the acquisition of an additional Partnership Interest by any new or existing Partner in connection with the contribution of money or other property (other than a de minimis amount) to the Partnership, (ii) immediately prior to the distribution by the Partnership to a Partner of Partnership property (other than a de minimis amount) as consideration for a Partnership Interest and (iii) immediately prior to the liquidation of the Partnership as defined in Treasury Regulations Section 1.704-1(b)(2)(ii)(g), the Book Value of all Partnership Assets shall be revalued upward or downward to reflect the fair market value of each such Partnership Asset as determined by the General Partner using such reasonable method of valuation as it may adopt.

(E) The foregoing provisions of this Section 4.4 are intended to comply with Treasury Regulations Section 1.704-1(b) and shall be interpreted and applied in a manner consistent with such Treasury Regulations. In the event the General Partner shall determine that it is prudent to modify the manner in which the Partners' Capital Accounts are computed hereunder in order to comply with such Treasury Regulations, the General Partner may make such modification if such modification is not likely to have a material effect on the amount distributable to any Partner under the terms of this Agreement and the General Partner notifies the other Partners in writing of such modification prior to making such modification.

Section 4.5 Return of Capital Account; Interest. Except as otherwise specifically provided in this Agreement, (i) no Partner shall have any right to withdraw or reduce its Capital Contributions or Capital Account,

or to demand and receive property other than cash from the Partnership in return for its Capital Contributions or Capital Account; (ii) no Partner shall have any priority over any other Partners as to the return of its Capital Contributions or Capital Account; (iii) any return of Capital Contributions or Capital Accounts to the Partners shall be solely from the Partnership Assets, and no Partner shall be personally liable for any such return; and (iv) no interest shall be paid by the Partnership on Capital Contributions or on balances in Partners' Capital Accounts.

Section 4.6 Preemptive Rights. No Person shall have any preemptive or similar rights with respect to the issuance or sale of additional Partnership Units.

Section 4.7 REIT Share Purchases. If the General Partner acquires additional REIT Shares pursuant to Article IX of the REIT Charter, the Partnership shall purchase from the General Partner that number of Partnership Units determined by applying the Conversion Multiple to the number of REIT Shares purchased by the General Partner at the same price and on the same terms as those upon which the General Partner purchased such REIT Shares.

#### ARTICLE V - ALLOCATIONS AND DISTRIBUTIONS

Section 5.1 Limited Liability. For bookkeeping purposes, the Profits of the Partnership shall be shared, and the Losses of the Partnership shall be borne, by the Partners as provided in Section 5.2 below; provided, however, that except as expressly provided in this Agreement, neither any Limited Partner (in its capacity as a Limited Partner) nor the Class B Limited Partner (in its capacity as Class B Limited Partner) shall be personally liable for losses, costs, expenses, liabilities or obligations of the Partnership in excess of its Capital Contribution required under Article IV hereof.

#### Section 5.2 Profits, Losses and Distributive Shares.

(A) Profits. After giving effect to the special allocations, if any, provided in Section 5.2(C), (D), and (I) Profits in each Fiscal Year shall be allocated in the following order:

(1) First to the General Partner until the cumulative Profits allocated to the General Partner under this Section 5.2(A)(1) equal the cumulative Losses allocated to such Partner under Section 5.2(B)(6);

(2) Second, to the Class B Limited Partner, until the Cumulative Profits allocated to such Partner under this Section 5.2(A)(2) equal the cumulative losses allocated to each Partner under Section 5.2(B)(5);

(3) Third, to each Partner in proportion to the cumulative Losses allocated to such Partner under Section 5.2(B)(4), until the cumulative Losses allocated to such Partner under this Section 5.2(A)(3) equal the cumulative Losses allocated to such Partner under Section 5.2(B)(4);

(4) Fourth, to the General Partner in proportion to the cumulative Losses allocated to the General Partner under this Section 5.2(A)(4) equal the cumulative Losses allocated to such Partner under Section 5.2(B)(3);

(5) Fifth, to each Partner in proportion to the cumulative Losses allocated to such Partner under Section 5.2(B)(2), until the cumulative Profits allocated to such Partner under this Section 5.2(A)(5) equal the cumulative Losses allocated to such Partner under Section 5.2(B)(2);

(6) Sixth, to each Partner in proportion to the cumulative Losses allocated to such Partner under Section 5.2(B)(1), until the cumulative Profits allocated to such Partner under this Section 5.2(A)(6) equal the cumulative Losses allocated to such Partner under Section 5.2(B)(1); and

(7) then, the balance, if any, to the Partners in proportion to their respective Partnership Interests.

(B) Losses. After giving effect to the special allocations, if any, provided in Section 5.2(C), (D) and (I), Losses in each Fiscal Year shall be allocated in the following order of priority:

(1) First, to the Partners, in proportion to their respective Partnership Interests, but not in excess of the positive Capital Account balance of any Partner prior to the allocation provided for in this Section 5.2(B)(1);

(2) Second, to the Partners (other than the Class B Limited Partner) with positive Capital Account balances prior to the allocation provided for in this Section 5.2(B)(2), in proportion to the amount of such balances;

(3) Third, to the General Partner in an amount equal to the excess of (i) the amount of Recourse Liabilities over (ii) the Aggregate Protected Amount;

(4) Fourth, to and among the Contributor Partners, in accordance with their respective Protected Amounts, until such time as the Contributor Partners have been allocated an aggregate amount of Loss pursuant to this Section 5.2(B)(4) equal to the Aggregate Protected Amount; and

(5) Fifth, to the Class B Limited Partner, until its Adjusted Capital Account is reduced to zero;

(6) Thereafter, to the General Partner;

provided, however, (i) that, from and following the first date upon which a Contributor Partner is no longer a Partner of the Partnership, the provisions of this Section 5.2(B) shall be null, void and without further force and effect with respect to such Contributor Partner; (ii) that, this Section 5.2(B) shall control, notwithstanding any reallocation or adjustment of taxable income, loss or other items by the Internal Revenue Service or any other taxing authority; provided, however, that neither the Partnership nor the General Partner (nor any of their respective affiliates) is required to indemnify any Contributor Partner (or its affiliates) for the loss of any tax benefit resulting from any reallocation or adjustment of taxable income, loss or other items by the Internal Revenue Service or other taxing authority; and (iii) that, during such period as there are Contributor Partners in the Partnership, the provisions of Section 5.2(B)(4) shall not be amended in a manner which adversely affects the Contributor Partners (without the consent of each Contributor Partner).

(C) Special Allocations. Except as otherwise provided in this Agreement, the following special allocations will be made in the following order and priority:

(1) Partnership Minimum Gain Chargeback. Notwithstanding any other provision of this Article V, if there is a net decrease in Partnership Minimum Gain during any tax year or other period for which allocations are made, each Partner will be specially allocated items of Partnership income and gain for that tax year or other period (and, if necessary, subsequent periods) in an amount equal to such Partner's share of the net decrease in Partnership Minimum Gain during such tax year or other period determined in accordance with Treasury Regulations Section 1.704-2(g). Allocations pursuant to the preceding sentence shall be made in proportion to the respective amounts required to be allocated to each Partner pursuant thereto. The items to be so allocated shall be

determined in accordance with Treasury Regulations Sections 1.704-2(f)(6) and 1.704-2(j)(2). This Section 5.2(C)(1) is intended to comply with the minimum gain chargeback requirements set forth in Treasury Regulations Section 1.704-2(f) and shall be interpreted consistently therewith, including the exceptions to the minimum gain chargeback requirement set forth in Treasury Regulations Section 1.704-2(f) and (3). If the General Partner concludes, after consultation with tax counsel, that the Partnership meets the requirements for a waiver of the minimum gain chargeback requirement as set forth in Treasury Regulations Section 1.704-2(f)(4), the General Partner may take steps reasonably necessary or appropriate in order to obtain such waiver.

(2) Partner Nonrecourse Debt Minimum Gain Chargeback.

Notwithstanding any other provision of this Section (other than Section 5.2(C)(1) which shall be applied before this Section 5.2(C)(2)), if there is a net decrease in Partner Minimum Gain during any tax year or other period for which allocations are made, each Partner with a share of Partner Minimum Gain determined in accordance with Treasury Regulations Section 1.704-2(i)(5) shall be specially allocated items of Partnership income and gain for that period (and, if necessary, subsequent periods) in an amount equal to such Partner's share of the net decrease in Partner Minimum Gain determined in accordance with Treasury Regulations Section 1.704-2(i)(4). The items to be so allocated shall be determined in accordance with Treasury Regulations Sections 1.704-2(i)(4) and 1.704-2(j)(2)(ii). This Section 5.2(C)(2) is intended to comply with the minimum gain chargeback requirements of Treasury Regulations Section 1.704-2(i)(4) and shall be interpreted consistently therewith, including the exceptions set forth in Treasury Regulations Section 1.704-2(f)(2) and (3) to the extent such exceptions apply to Treasury Regulations Sections 1.704-2(i)(4). If the General Partner concludes, after consultation with tax counsel, that the Partnership meets the requirements for a waiver of the Partner Minimum Gain chargeback requirement set forth in Treasury Regulation 1.704-2(f), but only to the extent such exception applies to Treasury Regulations Section 1.704-2(i)(4), the General Partner may take steps necessary or appropriate to obtain such waiver.

(3) Qualified Income Offset. A Partner who unexpectedly receives any adjustment, allocation or distribution described in Treasury Regulations Section 1.704-1(b)(2)(ii)(d)(4), (5) or (6) will be specially allocated items of Partnership income and gain in an amount and manner sufficient to eliminate, to the extent required by Treasury Regulations 1.704-1(b)(2)(ii)(d), the Adjusted Capital Account Deficit of the Partner as quickly as possible, provided that an allocation pursuant to this Section 5.2(C)(3) shall be made if and only to the extent that such Partner would have an Adjusted Capital Account Deficit after all other allocations provided for in this Article V have been tentatively made as if this Section 5.2(C)(3) were not contained in this Agreement.

(4) Partnership Nonrecourse Deductions. Partnership Nonrecourse Deductions for any taxable year or other period for which allocations are made will be allocated among the Partners in proportion to their respective Partnership Interests in the Partnership.

(5) Partner Nonrecourse Deductions. Notwithstanding anything to the contrary in this Agreement, any Partner Nonrecourse Deductions for any taxable year or other period for which allocations are made will be allocated to the Partner who bears the economic risk of loss with respect to the liability to which the Partner Nonrecourse Deductions are attributable in accordance with Treasury Regulations Section 1.704-2(i).

(6) Code Section 754 Adjustments. To the extent an adjustment to the adjusted tax basis of any Partnership asset under Code Section 734(b) or 743(b) is required to be taken into account in determining Capital Accounts under Treasury Regulations Section 1.704-1(b)(2)(iv)(m)(2) or (4), the amount of the adjustment to the Capital Accounts will be treated as an item of gain (if the adjustment increases the basis of the asset) or loss (if the adjustment decreases the basis of the asset), and the gain or loss will be specially allocated to the Partners in a



manner consistent with the manner in which their Capital Accounts are required to be adjusted under Treasury Regulations Section 1.704-1(b)(2)(iv)(m).

(7) Depreciation Recapture. In the event there is any recapture of Depreciation or investment tax credit, the allocation thereof shall be made among the Partners in the same proportion as the deduction for such Depreciation or investment tax credit was allocated.

(8) Interest in Partnership. Notwithstanding any other provision of this Agreement, no allocation of Profit or Loss (or item of Profit or Loss) will be made to a Partner if the allocation would not have "economic effect" under Treasury Regulations Section 1.704-1(b)(2)(ii)(a) or otherwise would not be in accordance with the Partner's interest in the Partnership within the meaning of Treasury Regulations Section 1.704-1(b)(3).

(D) Curative Allocations. The allocations set forth in Section 5.2(C)(1) through (8) (the "Regulatory Allocations") are intended to comply with certain requirements of Treasury Regulations Sections 1.704- 1(b) and 1.704-2. The Regulatory Allocations may not be consistent with the manner in which the Partners intend to divide Partnership distributions. Accordingly, the General Partner is authorized to further allocate Profits, Losses, and other items among the Partners in a reasonable manner so as to prevent the Regulatory Allocations from distorting the manner in which Partnership distributions would be divided among the Partners under Section 5.3, but for application of the Regulatory Allocations. In general, the reallocation will be accomplished by specially allocating other Profits, Losses and items of income, gain, loss and deduction, to the extent they exist, among the Partners so that the net amount of the Regulatory Allocations and the special allocations to each Partner is zero. The General Partner may accomplish this result in any reasonable manner that is consistent with Code Section 704 and the related Treasury Regulations.

(E) Tax Allocations.

(1) Except as otherwise provided in Section 5.2(E)(2), each item of income, gain, loss and deduction shall be allocated for federal income tax purposes in the same manner as each correlative item of income, gain, loss or deduction, is allocated for book purposes pursuant to the provisions of Section 5.1 hereof.

(2) Notwithstanding anything to the contrary in this Article V, in an attempt to eliminate any Book-Tax Disparity with respect to a Contributed Property, items of income, gain, loss or deduction with respect to each such property shall be allocated for federal income tax purposes among the Partners as follows:

(a) Depreciation, Amortization and Other Cost Recovery Items. In the case of each Contributed Property with a Book-Tax Disparity, any item of depreciation, amortization or other cost recovery allowance attributable to such property shall be allocated as follows: (x) first, to Partners (the "Non-Contributing Partners") other than the Partners who contributed such property to the Partnership (or are deemed to have contributed the property pursuant to Section 4.1(A) (the "Contributing Partners") in an amount up to the book allocation of such items made to the Non-Contributing Partners pursuant to Section 5.1 hereof, pro rata in proportion to the respective amount of book items so allocated to the Non-Contributing Partners pursuant to Section 5.1 hereof; and (y) any remaining depreciation, amortization or other cost recovery allowance to the Contributing Partners in proportion to their Percentage Interests. In no event shall the total depreciation, amortization or other cost recovery allowance allocated hereunder exceed the amount of the Partnership's depreciation, amortization or other cost recovery allowance with respect to such property.

(b) Gain or Loss on Disposition. In the event the Partnership sells or otherwise disposes of a Contributed Property with a Book-Tax Disparity, any gain or loss recognized by the Partnership in connection with such sale or other disposition shall be allocated among the Partners as follows: (x) first, any gain or loss shall be allocated to the Contributing Partners in proportion to their Percentage Interests to the extent required to eliminate any Book-Tax Disparity with respect to such property; and (y) any remaining gain or loss shall be allocated among the Partners in the same manner that the correlative items of book gain or loss are allocated among the Partners pursuant to Section 5.1 hereof.

(3) In the event the Book Value of a Partnership Asset (including a Contributed Property) is adjusted pursuant to Section 4.4(D) hereof, and such asset has not been deemed distributed by, and recontributed to the Partnership pursuant to Code Section 708 subsequent thereto, all items of income, gain, loss or deduction in respect of such property shall be allocated for federal income tax purposes among the Partners in the same manner as provided in Section 5.2(E)(2) hereof to take into account any variation between the fair market value of the property, as determined by the General Partner using such reasonable method of valuation as it may adopt, and the Book Value of such property, both determined as of the date of such adjustment.

(4) The General Partner shall have the authority to elect alternative methods to eliminate the Book-Tax Disparity with respect to one or more Contributed Properties, as permitted by Treasury Regulations Sections 1.704-3 and 1.704-3T, and such election shall be binding on all of the Partners.

(5) The Partners hereby intend that the allocation of tax items pursuant to this Section 5.2(E) comply with the requirements of Code Section 704(c) and Treasury Regulations Sections 1.704-3 and 1.704-3T.

(6) The allocation of items of income, gain, loss or deduction pursuant to this Section 5.2(E) are solely for federal, state and local income tax purposes, and the Capital Account balances of the Partners shall be adjusted solely for allocations of "book" items in respect of Partnership Assets pursuant to Section 5.1 hereof.

(F) Other Allocation Rules. The following rules will apply to the calculation and allocation of Profits, Losses and other items:

(1) Except as otherwise provided in the Agreement, all Profits, Losses and other items allocated to the Partners will be allocated among them in proportion to their Percentage Interests.

(2) For purposes of determining the Profits, Losses or any other item allocable to any period, Profits, Losses and other items will be determined on a daily, monthly or other basis, as determined by the General Partner using any permissible method under Code Section 706 and the related Treasury Regulations.

(3) Except as otherwise provided in this Agreement, all items of Partnership income, gain, loss and deduction, and other allocations not provided for in this Agreement will be divided among the Partners in the same proportions as they share Profits and Losses, provided that any credits shall be allocated in accordance with Treasury Regulations Section 1.704-1(b)(4)(ii).

(4) For purposes of Treasury Regulations Section 1.752-3(a), the Partners hereby agree that any nonrecourse liabilities of the Partnership in excess of the sum of (i) the Partnership Minimum Gain and (ii) the aggregate amount of taxable gain that would be allocated to the Partners under Section 704(c) (or in the same manner as Section 704(c) in connection with a revaluation of Partnership property) if the Partnership disposed of

(in a taxable transaction) all Partnership property subject to one or more nonrecourse liabilities of the Partnership in full satisfaction of such liabilities and for no other consideration, shall be allocated among the Partners in accordance with their respective shares of Profits. The General Partner shall have discretion in any Fiscal Year to allocate such excess nonrecourse liabilities among the Partners (a) in a manner reasonably consistent with allocations (that have substantial economic effect) of some other significant item of Partnership income or gain or (b) in accordance with the manner in which it is reasonably expected that the deductions attributable to the excess nonrecourse liabilities will be allocated.

(G) Partner Acknowledgment. The Partners agree to be bound by the provisions of this Section 5.2 in reporting their shares of Partnership income, gain, loss, deduction and credit for income tax purposes.

(H) Regulatory Compliance. The foregoing provisions of this Section 5.2 relating to the allocation of Profits, Losses and other items for federal income tax purposes are intended to comply with Treasury Regulations Sections 1.704-1(b), 1.704-2, 1.704-3 and 1.704-3T and shall be interpreted and applied in a manner consistent with such Treasury Regulations.

(I) Priority Allocation. The holder of a Class B Unit shall be allocated (i) gross income such that, over the life of the Partnership, the sum of all priority allocations pursuant to this Section 5.2(I) equals (or approaches as nearly as possible) the sum of all Priority Return Amounts distributed pursuant to Section 5.3(A), plus (ii) a further amount of gross income equal to any Priority Return Amount that is expected to be so distributed in the Fiscal Year succeeding the Fiscal Year in which the allocation is being made, to the extent allocable to a Distribution Period or portion thereof that falls within the Fiscal Year preceding the Fiscal Year in which such distribution is expected to occur.

#### Section 5.3 Distributions.

(A) The General Partner shall cause the Partnership to distribute to the holder of each Class B Unit an amount in cash equal to the cumulative undistributed Priority Return Amount (but not in excess of the Distributable Cash) on March 31, June 30, September 30 and December 31 of each year, commencing on June 30, 1997 (or in the case of a Class B Unit with a Deemed Original Issue Date after June 30, 1997, on the first such distribution date following the applicable Deemed Original Issue Date); provided that, if any such distribution date shall be a Saturday, Sunday or day on which banking institutions in the State of New York are authorized or obligated by law to close, or a day which is declared a national or New York State holiday (any of the foregoing, a "Non-business Day"), then such distribution shall be made on the next succeeding day which is not a Non-business Day. Priority Return Amounts that are distributable with respect to a period greater or less than a full Distribution Period shall be computed on the basis of a 360-day year consisting of 12 30-day months.

(B) After giving effect to Section 5.3(A), if applicable, the General Partner shall have the authority to cause the Partnership to make distributions from time to time as it determines, including without limitation, distributions which are sufficient to enable the General Partner to (i) maintain its status as a REIT, (ii) avoid the imposition of any tax under Code Section 857 and (iii) avoid the imposition of any excise tax under Code Section 4981; except that the first distribution paid on Units issued after June 1, 1996 shall be pro rated to reflect the actual portion of the period for which the distribution is being paid during which such Units were outstanding, or shall be in such other amount or computed on such other basis as may be agreed by the General Partner and the holders of such Units, provided that such other amount or the amount so computed, as applicable, may not exceed the aforementioned pro rated amount.

(C) Distributions pursuant to Section 5.3(B) shall be made pro rata among the Partners of record on the Record Date established by the General Partner for the distribution, in accordance with their respective Percentage Interests, without regard to the length of time the record holder has been such.

(D) The General Partner shall use its reasonable efforts to make distributions to the Partners so as to preclude any distribution or portion thereof from being treated as part of a sale of property to the Partnership by a Partner under Section 707 of the Code or the Treasury Regulations thereunder; provided that the General Partner and the Partnership shall not have liability to a Limited Partner under any circumstances as a result of any distribution to a Partner being so treated.

Section 5.4 Distribution upon Redemption. Notwithstanding any other provision hereof, proceeds of a Class B Redemption shall be distributed to the Class B Limited Partner in accordance with Section 9.1(C).

Section 5.5 Distributions upon Liquidation. Notwithstanding any other provision hereof, proceeds of a Terminating Capital Transaction shall be distributed to the Partners in accordance with Section 10.2.

Section 5.6 Amounts Withheld. All amounts withheld pursuant to the Code or any provision of state or local tax law and Section 7.6 of this Agreement with respect to any allocation, payment or distribution to the General Partner, the Class B Limited Partner, the Limited Partners or Assignees shall be treated as amounts distributed to such General Partner, the Class B Limited Partner, the Limited Partner or Assignees, as applicable, pursuant to Section 5.3 of this Agreement.

#### ARTICLE VI - PARTNERSHIP MANAGEMENT

##### Section 6.1 Management and Control of Partnership Business.

(A) Except as otherwise expressly provided or limited by the provisions of this Agreement, the General Partner shall have full, exclusive and complete discretion to manage the business and affairs of the Partnership, to make all decisions affecting the business and affairs of the Partnership and to take all such action as it deems necessary or appropriate to accomplish the purposes of the Partnership as set forth herein. Except as set forth in this Agreement, the Limited Partners shall not have any authority, right, or power to bind the Partnership, or to manage, or to participate in the management of the business and affairs of the Partnership in any manner whatsoever. Such management shall in every respect be the full and complete responsibility of the General Partner alone as herein provided.

(B) In carrying out the purposes of the Partnership, the General Partner shall be authorized to take all actions it deems necessary and appropriate to carry on the business of the Partnership. The Limited Partners and the Class B Limited Partner, by execution hereof, agrees that the General Partner is authorized to execute, deliver and perform any agreement and/or transaction on behalf of the Partnership.

(C) The General Partner and its Affiliates may acquire Limited Partner Interests from Limited Partners who agree so to transfer Limited Partner Interests or from the Partnership in accordance with Section 4.2(a). Any Limited Partner Interest acquired by the General Partner shall be converted into a General Partner Interest. Upon acquisition of any Limited Partner Interest, any Affiliate of the General Partner shall have all the rights of a Limited Partner.

Section 6.2 No Management by Limited Partners; Limitation of Liability.

(A) Neither the Limited Partners, in their capacity as Limited Partners, nor the Class B Limited Partner, in its capacity as Class B Limited Partner, shall take part in the day-to-day management, operation or control of the business and affairs of the Partnership or have any right, power, or authority to act for or on behalf of or to bind the Partnership or transact any business in the name of the Partnership. Neither the Limited Partners nor the Class B Limited Partner, in its capacity as Class B Limited Partner, shall have any rights other than those specifically provided herein or granted by law where consistent with a valid provision hereof. Any approvals rendered or withheld by the Limited Partners or the Class B Limited Partner pursuant to this Agreement shall be deemed as consultation with or advice to the General Partner in connection with the business of the Partnership and, in accordance with the Act, shall not be deemed as participation by the Limited Partners or the Class B Limited Partner in the business of the Partnership and are not intended to create any inference that the Limited Partners or the Class B Limited Partner should be classified as general partners under the Act.

(B) Neither the Limited Partner nor the Class B Limited Partner shall have any liability under this Agreement except with respect to withholding under Section 7.6, in connection with a violation of any provision of this Agreement by such Limited Partner or the Class B Limited Partner or as provided in the Act.

(C) The General Partner shall not take any action which would subject a Limited Partner (in its capacity as Limited Partner) or the Class B Limited Partner (in its capacity as Class B Limited Partner) to liability as a general partner.

Section 6.3 Limitations on Partners.

(A) No Partner or Affiliate of a Partner shall have any authority to perform (i) any act in violation of any applicable law or regulation thereunder, (ii) any act prohibited by Section 6.2(C), or (iii) any act which is required to be Consented to or ratified pursuant to this Agreement without such Consent or ratification.

(B) No action shall be taken by a Partner if it would cause the Partnership to be treated as an association taxable as a corporation for federal income tax purposes or, without the consent of the General Partner, as a publicly-traded partnership within the meaning of Section 7704 of the Code. A determination of whether such action will have the above described effect shall be based upon a declaratory judgment or similar relief obtained from a court of competent jurisdiction, a favorable ruling from the IRS or the receipt of an opinion of counsel.

Section 6.4 Business with Affiliates.

(A) The General Partner, in its discretion, may cause the Partnership to transact business with any Partner or its Affiliates for goods or services reasonably required in the conduct of the Partnership's business; provided that any such transaction shall be effected only on terms competitive with those that may be obtained in the marketplace from unaffiliated Persons. The foregoing proviso shall not apply to transactions between the Partnership and its Subsidiaries. In addition, neither the General Partner nor any Affiliate of the General Partner may sell, transfer or otherwise convey any property to, or purchase any property from, the Partnership, except (i) on terms competitive with those that may be obtained in the marketplace from unaffiliated Persons or (ii) where the General Partner determines, in its sole judgment, that such sale, transfer or conveyance confers benefits on the General Partner or the Partnership in respect of matters of tax or corporate or financial structure; provided, in the case of this clause (ii), such sale, transfer, or conveyance is not being effected for the purpose of materially disadvantaging the Limited Partners.

(B) In furtherance of Section 6.4(A), the Partnership may lend or contribute to its Subsidiaries on terms and conditions established by the General Partner.

Section 6.5 Compensation; Reimbursement of Expenses. In consideration for the General Partner's services to the Partnership in its capacity as General Partner, the Partnership shall pay on behalf of or reimburse to the General Partner (i) all expenses of the General Partner incurred in connection with the management of the business and affairs of the Partnership, including all employee compensation of employees of the General Partner and indemnity or other payments made pursuant to agreements entered into in furtherance of the Partnership's business, (ii) all amounts payable by the General Partner under the Registration Rights Agreement and (iii) all general and administrative expenses incurred by the General Partner. Except as otherwise set forth in this Agreement, the General Partner shall be fully and entirely reimbursed by the Partnership for any and all direct and indirect costs and expenses incurred in connection with the organization and continuation of the Partnership pursuant to this Agreement. In addition, the General Partner shall be reimbursed for all expenses incurred by the General Partner in connection with (i) the initial public offering of REIT Shares by the General Partner and (ii) any other issuance of additional Partnership Interests or REIT Shares.

Section 6.6 Liability for Acts and Omissions.

(A) The General Partner shall not be liable, responsible or accountable in damages or otherwise to the Partnership or any of the other Partners for any act or omission performed or omitted in good faith on behalf of the Partnership and in a manner reasonably believed to be (i) within the scope of the authority granted by this Agreement and (ii) in the best interests of the Partnership or the stockholders of the General Partner. In exercising its authority hereunder, the General Partner may, but shall not be under any obligation to, take into account the tax consequences to any Partner of any action it undertakes on behalf of the Partnership. Neither the General Partner nor the Partnership shall have any liability as a result of any income tax liability incurred by a Partner as a result of any action or inaction of the General Partner hereunder and, by their execution of this Agreement, the Limited Partners acknowledge the foregoing.

(B) Unless otherwise prohibited hereunder, the General Partner shall be entitled to exercise any of the powers granted to it and perform any of the duties required of it under this Agreement directly or through any agent. The General Partner shall not be responsible for any misconduct or negligence on the part of any agent; provided that the General Partner selected or appointed such agent in good faith.

(C) The General Partner acknowledges that it owes fiduciary duties both to its stockholders and to the Limited Partners and it shall use its reasonable efforts to discharge such duties to each; provided, however, that in the event of a conflict between the interests of the stockholders of the General Partner and the interests of the Limited Partners, the Limited Partners agree that the General Partner shall discharge its fiduciary duties to the Limited Partners by acting in the best interests of the General Partner's stockholders. Nothing contained in the preceding sentence shall be construed as entitling the General Partner to realize any profit or gain from any transaction between the General Partner and the Partnership (except in connection with a distribution in accordance with this Agreement), including from the lending of money by the General Partner to the Partnership or the contribution of property by the General Partner to the Partnership, it being understood that in any such transaction the General Partner shall be entitled to cost recovery only.

#### Section 6.7 Indemnification.

(A) The Partnership shall indemnify the General Partner and each director, officer and stockholder of the General Partner and each Person (including any Affiliate) designated as an agent by the General Partner in its reasonable discretion (each, an "Indemnified Party") to the fullest extent permitted under the Act (including any procedures set forth therein regarding advancement of expenses to such Indemnified Party) from and against any and all losses, claims, damages, liabilities, expenses (including reasonable attorneys' fees), judgments, fines, settlements and any other amounts arising out of or in connection with any claims, demands, actions, suits or proceedings (civil, criminal or administrative) relating to or resulting (directly or indirectly) from the operations of the Partnership, in which such Indemnified Party becomes involved, or reasonably believes it may become involved, as a result of the capacity referred to above.

(B) The Partnership shall have the authority to purchase and maintain such insurance policies on behalf of the Indemnified Parties as the General Partner shall determine, which policies may cover those liabilities the General Partner reasonably believes may be incurred by an Indemnified Party in connection with the operation of the business of the Partnership. The right to procure such insurance on behalf of the Indemnified Parties shall in no way mitigate or otherwise affect the right of any such Indemnified Party to indemnification pursuant to Section 6.7(A) hereof.

(C) The provisions of this Section 6.7 are for the benefit of the Indemnified Parties, their heirs, successors, assigns and administrators and shall not be deemed to create any rights in or benefit to any other Person.

#### ARTICLE VII - ADMINISTRATIVE, FINANCIAL AND TAX MATTERS

Section 7.1 Books and Records. The General Partner shall maintain at the office of the Partnership full and accurate books of the Partnership showing all receipts and expenditures, assets and liabilities, profits and losses, names and current addresses of Partners, and all other records necessary for recording the Partnership's business and affairs. Each Limited Partner shall have, upon written demand and at such Limited Partner's expense, the right to receive true and complete information regarding Partnership matters to the extent required (and subject to the limitations) under Delaware law.

Section 7.2 Annual Audit and Accounting. The books and records of the Partnership shall be kept for financial and tax reporting purposes on the accrual basis of accounting in accordance with generally accepted accounting principles ("GAAP"). The accounts of the Partnership shall be audited annually by a nationally recognized accounting firm of independent public accountants selected by the General Partner (the "Independent Accountants").

Section 7.3 Partnership Funds. The General Partner shall have responsibility for the safekeeping and use of all funds and assets of the Partnership, whether or not in its direct or indirect possession or control. All funds of the Partnership not otherwise invested shall be deposited in one or more accounts maintained in such banking institutions as the General Partner shall determine, and withdrawals shall be made only in the regular course of Partnership business on such signatures as the General Partner may from time to time determine.

Section 7.4 Reports and Notices. The General Partner shall provide all Partners with the following reports no later than the dates indicated or as soon thereafter as circumstances permit:

(A) By March 31 of each year, IRS Form 1065 and Schedule K-1, or similar forms as may be required by the IRS, stating each Partner's allocable share of income, gain, loss, deduction or credit for the prior Fiscal Year;

(B) Within ninety (90) days after the end of each of the first three (3) fiscal quarters, as of the last day of the fiscal quarter, a report containing unaudited financial statements of the Partnership, or of the General Partner if such statements are prepared on a consolidated basis with the General Partner, and such other information as may be legally required or determined to be appropriate by the General Partner; and

(C) Within one hundred twenty (120) days after the end of each Fiscal Year, as of the close of the Fiscal Year, an annual report containing audited financial statements of the Partnership, or of the General Partner if such statements are prepared on a consolidated basis with the General Partner, presented in accordance with GAAP and certified by the Independent Accountants.

#### Section 7.5 Tax Matters.

(A) The General Partner shall be the Tax Matters Partner of the Partnership for federal income tax matters pursuant to Code Section 6231(a)(7)(A). The Tax Matters Partner is authorized and required to represent the Partnership (at the expense of the Partnership) in connection with all examinations of the affairs of the Partnership by any federal, state, or local tax authorities, including any resulting administrative and judicial proceedings, and to expend funds of the Partnership for professional services and costs associated therewith. The Tax Matters Partner shall deliver to the Limited Partners within ten (10) business days of the receipt thereof a copy of any notice or other communication with respect to the Partnership received from the IRS (or other governmental tax authority), or any court, in each case with respect to any administrative or judicial proceeding involving the Partnership. The Partners agree to cooperate with each other in connection with the conduct of all proceedings pursuant to this Section 7.5(A).

(B) The Tax Matters Partner shall receive no compensation for its services in such capacity. If the Tax Matters Partner incurs any costs related to any tax audit, declaration of any tax deficiency or any administrative proceeding or litigation involving any Partnership tax matter, such amount shall be an expense of the Partnership and the Tax Matters Partner shall be entitled to full reimbursement therefor.

(C) The General Partner shall cause to be prepared all federal, state and local income tax returns required of the Partnership at the Partnership's expense.

(D) Except as set forth herein, the General Partner shall determine whether to make (and, if necessary, revoke) any tax election available to the Partnership under the Code or any state tax law; provided, however, upon the request of any Partner, the General Partner shall make the election under Code Section 754 and the Treasury Regulations promulgated thereunder. The Partnership shall elect to deduct expenses, if any, incurred by it in organizing the Partnership in accordance with the provisions of Code Section 709.

Section 7.6 Withholding. Each Partner hereby authorizes the Partnership to withhold from or pay to any taxing authority on behalf of such Partner any tax that the General Partner determines the Partnership is required to withhold or pay with respect to any amount distributable or allocable to such Partner. Any amount paid



to any taxing authority which does not constitute a reduction in the amount otherwise distributable to such Partner shall be treated as a loan from the Partnership to such Partner, which loan shall bear interest at the "prime rate" as published from time to time in The Wall Street Journal plus two (2) percentage points, and shall be repaid within ten (10) business days after request for repayment from the General Partner. The obligation to repay any such loan shall be secured by such Partner's Partnership Interest and each Partner hereby grants the Partnership a security interest in his Partnership Interest for the purposes set forth in this Section 7.6, this Section 7.6 being intended to serve as a security agreement for purposes of the Uniform Commercial Code with the General Partner having in respect hereof all of the remedies of a secured party under the Uniform Commercial Code. Each Partner agrees to take such reasonable actions as the General Partner may request to perfect and continue the perfection of the security interest granted hereby. In the event any Partner fails to repay any deemed loan pursuant to this Section 7.6 the Partnership shall be entitled to avail itself of any rights and remedies it may have. Furthermore, upon the expiration of ten (10) business days after demand for payment, the General Partner shall have the right, but not the obligation, to make the payment to the Partnership on behalf of the defaulting Partner and thereupon be subrogated to the rights of the Partnership with respect to such defaulting Partner.

#### ARTICLE VIII - TRANSFER OF PARTNERSHIP INTERESTS; ADMISSIONS OF PARTNERS

Section 8.1 Transfer by General Partner. The General Partner may not voluntarily withdraw or Transfer all or any portion of its General Partner Interest. Notwithstanding the foregoing, the General Partner may pledge its General Partner Interest in furtherance of the Partnership's business (including without limitation, in connection with a loan agreement under which the Partnership is a borrower) without the consent of any Partner.

Section 8.2 Obligations of a Prior General Partner. Upon an Involuntary Withdrawal of the General Partner and the subsequent Transfer of the General Partner's Interest, such General Partner shall (i) remain liable for all obligations and liabilities (other than Partnership liabilities payable solely from Partnership Assets) incurred by it as General Partner before the effective date of such event and (ii) pay all costs associated with the admission of its Successor General Partner. However, such General Partner shall be free of and held harmless by the Partnership against any obligation or liability incurred on account of the activities of the Partnership from and after the effective date of such event, except as provided in this Agreement.

Section 8.3 Successor General Partner. A successor to all of a General Partner's General Partner Interest who is proposed to be admitted to the Partnership as a Successor General Partner shall be admitted as the General Partner, effective upon the Transfer. Any such transferee shall carry on the business of the Partnership without dissolution. In addition, the following conditions must be satisfied:

(A) The Person shall have accepted and agreed to be bound by all the terms and provisions of this Agreement by executing a counterpart thereof and such other documents or instruments as may be required or appropriate in order to effect the admission of such Person as a General Partner; and

(B) An amendment to this Agreement evidencing the admission of such Person as a General Partner shall have been executed by all General Partners and an amendment to the Certificate shall have been filed for recordation as required by the Act.

(C) Any consent required under Section 10.1(A) shall have been obtained.

Section 8.4 Restrictions on Transfer and Withdrawal by Limited Partner.

(A) Subject to the provisions of Section 8.4(D), no Limited Partner may Transfer all or any portion of his Partnership Interest without first obtaining the Consent of the General Partner, which Consent may be granted or withheld in the sole and absolute discretion of the General Partner. Any such purported transfer undertaken without such Consent shall be considered to be null and void ab initio and shall not be given effect. Each Limited Partner acknowledges that the General Partner has agreed not to grant any such consent prior to the Transfer Restriction Date.

(B) No Limited Partner may withdraw from the Partnership other than as a result of a permitted Transfer (i.e., a Transfer consented to as contemplated by clause (A) above or clause (D) below or a Transfer pursuant to clause (C) below) of all of his Partnership Units pursuant to this Article VIII or pursuant to a redemption or exchange of all of his Partnership Units pursuant to Article IX. Upon the permitted Transfer or redemption of all of a Limited Partner's Partnership Units, such Limited Partner shall cease to be a Limited Partner.

(C) Upon the Involuntary Withdrawal of any Limited Partner (which shall under no circumstance cause the dissolution of the Partnership), the executor, administrator, trustee, guardian, receiver or conservator of such Limited Partner's estate shall become a Substituted Limited Partner upon compliance with the provisions of Section 8.5(A)(1)-(3).

(D) Subject to clause (E) below, a Limited Partner may Transfer, with the Consent of the General Partner, all or a portion of his Partnership Units to (a) a parent or parents, spouse, natural or adopted descendant or descendants, spouse of such a descendant, or brother or sister, or a trust created by such Limited Partner for the benefit of such Limited Partner and/or any such person(s), of which trust such Limited Partner or any such person(s) is a trustee, (b) a corporation controlled by a Person or Persons named in (a) above, or (c) if the Limited Partner is an entity, its beneficial owners, and the General Partner shall grant its Consent to any Transfer pursuant to this Section 8.4(D) unless such Transfer, in the reasonable judgment of the General Partner, would cause (or have the potential to cause) the General Partner to fail to qualify for taxation as a REIT, in which case the General Partner shall have the absolute right to refuse to permit such Transfer, and any purported Transfer in violation of this Section 8.4(D) shall be null and void ab initio.

(E) No Transfer of Limited Partnership Units shall be made if such Transfer would (i) in the opinion of Partnership counsel, cause the Partnership to be terminated for federal income tax purposes or to be treated as an association taxable as a corporation (rather than a partnership) for federal income tax purposes; (ii) be effected through an "established securities market" or a "secondary market (or the substantial equivalent thereof)" within the meaning of Code Section 7704 and the Treasury Regulations thereunder, (iii) in the opinion of Partnership counsel, violate the provisions of applicable securities laws; (iv) violate the terms of (or result in a default or acceleration under) any law, rule, regulation, agreement or commitment binding on the Partnership; (v) cause the Partnership to become, with respect to any employee benefit plan subject to Title I of ERISA, a "party-in-interest" (as defined in Section 3(14) of ERISA) or a "disqualified person" (as defined in Section 4975(e) of the Code); (vi) in the opinion of counsel to the Partnership, cause any portion of the underlying assets of the Partnership to constitute assets of any employee benefit plan pursuant to Department of Labor Regulations Section 2510.3-101; or (vii) result in a deemed distribution to any Partner attributable to a failure to meet the requirements of Treasury Regulations Section 1.752-2(d)(1), unless such Partner consents thereto.

(F) Prior to the consummation of any Transfer under this Section 8.4, the transferor and/or the transferee shall deliver to the General Partner such opinions, certificates and other documents as the General Partner shall request in connection with such Transfer.

#### Section 8.5 Substituted Limited Partner.

(A) No transferee shall become a Substituted Limited Partner in place of his assignor unless and until the following conditions have been satisfied:

(1) The assignor and transferee file a Notice or other evidence of Transfer and such other information reasonably required by the General Partner, including, without limitation, names, addresses and telephone numbers of the assignor and transferee;

(2) The transferee executes, adopts and acknowledges this Agreement, or a counterpart hereto, and such other documents as may be reasonably requested by the General Partner, including without limitation, all documents necessary to comply with applicable tax and/or securities rules and regulations;

(3) The assignor or transferee pays all costs and fees incurred or charged by the Partnership to effect the Transfer and substitution; and

(4) The assignor or transferee obtains the written Consent of the General Partner, which may be given or withheld in its sole and absolute discretion.

(B) If a transferee of a Limited Partner does not become a Substituted Limited Partner pursuant to Section 8.5(A), such transferee shall be an Assignee and shall not have any rights to require any information on account of the Partnership's business, to inspect the Partnership's books or to vote or otherwise take part in the affairs of the Partnership (such Partnership Units being deemed to have been voted in the same proportion as all other Partnership Units held by Limited Partners have been voted). Such Assignee shall be entitled, however, to all the rights of an assignee of a limited partnership interest under the Act. Any Assignee wishing to Transfer the Partnership Units acquired shall be subject to the restrictions set forth in this Article VIII.

Section 8.6 Timing and Effect of Transfers. Unless the General Partner agrees otherwise, Transfers under this Article VIII may only be made as of the first day of a fiscal quarter of the Partnership. Upon any Transfer of a Partnership Interest in accordance with this Article VIII or redemption of a Partnership Interest in accordance with Article IX, the Partnership shall allocate all items of Profit and Loss between the assignor Partner and the transferee Partner in accordance with Section 5.2(F)(2) hereof. The assignor Partner shall have the right to receive all distributions as to which the Record Date precedes the date of Transfer and the transferee Partner shall have the right to receive all distributions thereafter.

Section 8.7 Additional Limited Partners. Other than in accordance with the transactions specified in the Contribution Agreements, after the initial execution of this Agreement and the admission to the Partnership of the Initial Limited Partners, any Person making a Capital Contribution to the Partnership in accordance herewith shall be admitted as an Additional Limited Partner of the Partnership only (i) with the Consent of the General Partner and (ii) upon execution, adoption and acknowledgment of this Agreement, or a counterpart hereto, and such other documents as may be reasonably requested by the General Partner, including without limitation, the power of attorney required under Section 12.3. Upon satisfaction of the foregoing requirements, such Person shall be

admitted as an Additional Limited Partner effective on the date upon which the name of such Person is recorded on the books of the Partnership.

Section 8.8 Amendment of Agreement and Certificate. Upon any admission of a Person as a Partner to the Partnership, the General Partner shall make any necessary amendment to this Agreement to reflect such admission and, if required by the Act, to cause to be filed an amendment to the Certificate.

#### ARTICLE IX - REDEMPTION

##### Section 9.1 Right of Redemption.

(A) Subject to any restriction on the General Partner, which restriction may arise as a result of the REIT Charter, the laws governing the General Partner or otherwise (a "Redemption Restriction"), beginning on the Redemption Effective Date, during each Redemption Period each Redeeming Party shall have the right to require the Partnership to redeem all or a portion of the Partnership Units held by such Redeeming Party by providing the General Partner with a Redemption Notice. A Limited Partner may invoke its rights under this Article IX with respect to 100 Partnership Units or an integral multiple thereof or all of the Partnership Units held by such Limited Partner. Upon the General Partner's receipt of a Redemption Notice from a Redeeming Party, the Partnership shall be obligated (subject to the existence of any Redemption Restriction) to redeem the Partnership Units from such Redeeming Party (the "Redemption Obligation").

(B) Upon receipt of a Redemption Notice from a Redeeming Party, the General Partner shall either (i) cause the Partnership to redeem the Partnership Units tendered in the Redemption Notice, (ii) assume the Redemption Obligation, as set forth in Section 9.4, or (iii) provide written Notice to the Redeeming Party of each applicable Redemption Restriction.

(C) On and after May 14, 2002 at any time or from time to time, upon such notice as the General Partner may determine, the General Partner, in its sole discretion, may cause the Partnership to redeem all or such other number of Class B Units as the General Partner may determine (any such redemption, a "Class B Redemption") at a cash redemption price per Class B Unit equal to that portion of the Capital Contribution of the Class B Limited Partner allocable to each such unit, plus all accumulated and unpaid Priority Return Amounts to the date of Class B Redemption (such price, the "Class B Redemption Price"). Upon any Class B Redemption, an amount equal to the product of the Class B Redemption Price and the number of Class B Units redeemed by the Partnership shall be distributed by the Partnership to the Class B Limited Partner.

Section 9.2 Timing of Redemption. The Redemption Obligation (or the obligation to provide Notice of an applicable Redemption Restriction, if one exists) shall mature on the date which is seven (7) business days after the receipt by the General Partner of a Redemption Notice from the Redeeming Party (the "Redemption Date").

Section 9.3 Redemption Price. On or before the Redemption Date, the Partnership (or the General Partner if it elects pursuant to Section 9.4) shall deliver to the Redeeming Party, in the sole and absolute discretion of the General Partner either (i) a Share Payment or (ii) a Cash Payment. In order to enable the Partnership to effect a redemption by making a Share Payment pursuant to this Section 9.3, the General Partner in its sole and absolute discretion may issue to the Partnership the number of REIT Shares required to make such Share Payment

in exchange for the issuance to the General Partner of Partnership Units equal in number to the quotient of the number of REIT Shares issued and Conversion Factor.

Section 9.4 Assumption of Redemption Obligation. Upon receipt of a Redemption Notice, the General Partner, in its sole and absolute discretion, shall have the right to assume the Redemption Obligation of the Partnership. In such case, the General Partner shall be substituted for the Partnership for all purposes of this Article IX and, upon acquisition of the Partnership Units tendered by the Redeeming Party pursuant to the Redemption Notice shall be treated for all purposes of this Agreement as the owner of such Partnership Units. Such exchange transaction shall be treated for federal income tax purposes by the Partnership, the General Partner and the Redeeming Party as a sale by the Redeeming Party as seller to the General Partner as purchaser.

Section 9.5 Further Assurances; Certain Representations. Each party to this Agreement agrees to execute any documents deemed reasonably necessary by the General Partner to evidence the issuance of any Share Payment to a Redeeming Party. Notwithstanding anything herein to the contrary, each holder of First Highland Units agrees that, if the General Partner shall elect to satisfy a Redemption Obligation with respect to First Highland Units by making a Share Payment, such Redemption Obligation shall mature on the date which is seven (7) business days after receipt by the Partnership and the General Partner of documents similar to the "Investor Materials" submitted in connection with the sale of the First Highland Properties to the Partnership and any other similar documents reasonably required by, and in form reasonably satisfactory to, the Partnership. Each Limited Partner, by executing this Agreement, shall be deemed to have represented to the General Partner and the Partnership that (i) its acquisition of its Partnership Interest on the date hereof is made as a principal for its own account, for investment purposes only and not with a view to the resale or distribution of such Partnership Interest and (ii) if it shall receive REIT Shares pursuant to this Article IX other than pursuant to an effective registration statement under the Securities Act of 1933, as amended, that its acquisition of such REIT Shares is made as a principal for its own account, for investment purposes only and not with a view to the resale or distribution of such REIT Shares and agrees that such REIT Shares may bear a legend to the effect that such REIT Shares have not been so registered and may not be sold other than pursuant to such a registration statement or an exemption from the registration requirements of such Act.

Section 9.6 Effect of Redemption. Upon the satisfaction of the Redemption Obligation by the Partnership or the General Partner, as the case may be, the Redeeming Party shall have no further right to receive any Partnership distributions in respect of the Partnership Units so redeemed and shall be deemed to have represented to the Partnership and the General Partner that the Partnership Units tendered for redemption are not subject to any liens, claims or encumbrances. Upon a Class B Redemption by the Partnership, the Class B Limited Partner shall have no further right to receive any Partnership distributions or allocations in respect of the Class B Units so redeemed.

Section 9.7 Registration Rights. In the event a Limited Partner receives REIT Shares in connection with a redemption of Partnership Units originally issued to Initial Limited Partners on June 30, 1994 pursuant to this Article IX, such Limited Partner shall be entitled to have such REIT Shares registered under the Securities Act of 1933, as amended, as provided in the Registration Rights Agreement.

ARTICLE X - DISSOLUTION AND LIQUIDATION

Section 10.1 Term and Dissolution. The Partnership commenced as of November 23, 1993, and shall continue until December 31, 2092, at which time the Partnership shall dissolve or until dissolution occurs prior to that date for any one of the following reasons:

(A) An Involuntary Withdrawal or a voluntary withdrawal, even though in violation of this Agreement, of the General Partner unless, within ninety (90) days after such event of withdrawal all the remaining Partners agree in writing to the continuation of the Partnership and to the appointment of a Successor General Partner;

(B) Entry of a decree of judicial dissolution of the Partnership under the Act; or

(C) The sale, exchange or other disposition of all or substantially all of the Partnership Assets.

Section 10.2 Liquidation of Partnership Assets.

(A) Subject to Section 10.2(E), in the event of dissolution pursuant to Section 10.1, the Partnership shall continue solely for purposes of winding up the affairs of, achieving a final termination of, and satisfaction of the creditors of, the Partnership. The General Partner (or, if there is no General Partner remaining, any Person elected by a majority in interest of the Limited Partners (the "Liquidator")) shall be responsible for oversight of the winding up and dissolution of the Partnership. The Liquidator shall obtain a full accounting of the assets and liabilities of the Partnership and such Partnership Assets shall be liquidated (including, at the discretion of the Liquidator, in exchange, in whole or in part, for REIT Shares) as promptly as the Liquidator is able to do so without any undue loss in value, with the proceeds therefrom applied and distributed in the following order:

(1) First, to the discharge of Partnership debts and liabilities to creditors other than Partners;

(2) Second, to the discharge of Partnership debts and liabilities to the Partners;

(3) Third, to the Class B Limited Partner in an amount equal to any unpaid Priority Return Amounts;

(4) The balance, if any, to the Partners in accordance with their positive Capital Accounts after giving effect to all contributions, distributions and allocations for all periods.

(B) In accordance with Section 10.2(A), the Liquidator shall proceed without any unnecessary delay to sell and otherwise liquidate the Partnership Assets; provided, however, that if the Liquidator shall determine that an immediate sale of part or all of the Partnership Assets would cause undue loss to the Partners, the Liquidator may defer the liquidation except (i) to the extent provided by the Act or (ii) as may be necessary to satisfy the debts and liabilities of the Partnership to Persons other than the Partners.

(C) If, in the sole and absolute discretion of the Liquidator, there are Partnership Assets that the Liquidator will not be able to liquidate, or if the liquidation of such assets would result in undue loss to the Partners,

the Liquidator may distribute such Partnership Assets to the Partners in-kind, in lieu of cash, as tenants-in-common in accordance with the provisions of Section 10.2(A). The foregoing notwithstanding, such in-kind distributions shall only be made if in the Liquidator's good faith judgment that is in the best interest of the Partners.

(D) Upon the complete liquidation and distribution of the Partnership Assets, the Partners shall cease to be Partners of the Partnership, and the Liquidator shall execute, acknowledge and cause to be filed all certificates and notices required by law to terminate the Partnership. Upon the dissolution of the Partnership pursuant to Section 10.1, the Liquidator shall cause to be prepared, and shall furnish to each Partner, a statement setting forth the assets and liabilities of the Partnership. Promptly following the complete liquidation and distribution of the Partnership Assets, the Liquidator shall furnish to each Partner a statement showing the manner in which the Partnership Assets were liquidated and distributed.

(E) Notwithstanding the foregoing provisions of this Section 10.2, in the event that the Partnership shall dissolve as a result of the expiration of the term provided for herein or as a result of the occurrence of an event of the type described in Section 10.1(B) or (C), then each Limited Partner shall be deemed to have delivered a Redemption Notice on the date of such dissolution. In connection with each such Redemption Notice, the General Partner shall have the option of either (i) complying with the redemption procedures contained in Article IX or (ii) at the request of any Limited Partner, delivering to such Limited Partner, Partnership property approximately equal in value to the value of such Limited Partner's Partnership Units upon the assumption by such Limited Partner of such Limited Partner's proportionate share of the Partnership's liabilities and payment by such Limited Partner (or the Partnership) of any excess (or deficiency) of the value of the property so delivered over the value of such Limited Partner's Partnership Units. In lieu of requiring such Limited Partner to assume its proportionate share of Partnership liabilities, the General Partner may deliver to such Limited Partner unencumbered Partnership property approximately equal in value to the net value of such Limited Partner's Partnership Units.

### Section 10.3 Effect of Treasury Regulations.

(A) In the event the Partnership is "liquidated" within the meaning of Treasury Regulations Section 1.704-1(b)(2)(ii)(g), distributions shall be made pursuant to this Article X to the General Partner, the Limited Partners and the Class B Limited Partner who have positive Capital Accounts in compliance with Treasury Regulations Section 1.704-1(b)(2)(ii)(b)(2). If any Contributor Partner has a deficit balance in its Capital Account (after giving effect to all contributions (without regard to this Section 10.3(A)), distributions and allocations), each such Contributor Partner shall contribute to the capital of the Partnership an amount equal to its respective deficit balance, such obligation to be satisfied within ninety (90) days following the liquidation and dissolution of the Partnership in accordance with the provisions of this Article X hereof. Conversely, if any Partner other than a Contributor Partner has a deficit balance in its Capital Account (after giving effect to all contributions (without regard to this Section 10.3(A)), distributions and allocations), such Partner shall have no obligation to make any contribution to the capital of the Partnership. Any deficit restoration obligation pursuant to the provisions hereof shall be for the benefit of creditors of the Partnership or any other Person to whom any debts, liabilities, or obligations are owed by (or who otherwise has any claim against) the Partnership or the general partner, in its capacity as General Partner of the Partnership.

(B) In the event the Partnership is "liquidated" within the meaning of Treasury Regulations Section 1.704-1(b)(2)(ii)(g) but there has been no dissolution of the Partnership under Section 10.1 hereof, then the Partnership Assets shall not be liquidated, the Partnership's liabilities shall not be paid or discharged and the Partnership's affairs shall not be wound up. In the event of such a liquidation there shall be deemed to have been a distribution of Partnership Assets in kind to the Partners in accordance with their respective Capital Accounts

followed by a recontribution of the Partnership Assets by the Partners also in accordance with their respective Capital Accounts.

Section 10.4 Time for Winding-Up. Anything in this Article X notwithstanding, a reasonable time shall be allowed for the orderly winding-up of the business and affairs of the Partnership and the liquidation of the Partnership Assets in order to minimize any potential for losses as a result of such process. During the period of winding-up, this Agreement shall remain in full force and effect and shall govern the rights and relationships of the Partners inter se.

#### ARTICLE XI - AMENDMENTS AND MEETINGS

##### Section 11.1 Amendment Procedure.

(A) Amendments to this Agreement may be proposed by the General Partner. An amendment proposed at any time when the General Partner holds less than 90% of all Partnership Units will be adopted and effective only if it receives the Consent of the holders of a majority of the Partnership Units not then held by the General Partner and an amendment proposed at any time when the General Partner holds 90% or more of all Partnership Units may be made by the General Partner without the Consent of any Limited Partner; provided, however, no amendment shall be adopted if it would (i) convert a Limited Partner's Interest in the Partnership into a general partner interest, (ii) increase the liability of a Limited Partner under this Agreement, (iii) except as otherwise permitted in this Agreement, alter the Partner's rights to distributions set forth in Article V, or the allocations set forth in Article V, (iv) alter or modify any aspect of the Partners' rights with respect to redemption of Partnership Units, (v) cause the early termination of the Partnership (other than pursuant to the terms hereof) or (vi) amend this Section 11.1(A), in each case without the Consent of each Partner adversely affected thereby. In connection with any proposed amendment of this Agreement requiring Consent, the General Partner shall either call a meeting to solicit the vote of the Partners or seek the written vote of the Partners to such amendment. In the case of a request for a written vote, the General Partner shall be authorized to impose such reasonable time limitations for response, but in no event less than ten (10) days, with the failure to respond being deemed a vote consistent with the vote of the General Partner.

(B) Notwithstanding the foregoing, amendments may be made to this Agreement by the General Partner, without the Consent of any Limited Partner, to (i) add to the representations, duties or obligations of the General Partner or surrender any right or power granted to the General Partner herein; (ii) cure any ambiguity, correct or supplement any provision herein which may be inconsistent with any other provision herein or make any other provisions with respect to matters or questions arising hereunder which will not be inconsistent with any other provision hereof; (iii) reflect the admission, substitution, termination or withdrawal of Partners in accordance with this Agreement; or (iv) satisfy any requirements, conditions or guidelines contained in any order, directive, opinion, ruling or regulation of a federal or state agency or contained in federal or state law. The General Partner shall reasonably promptly notify the Limited Partners whenever it exercises its authority pursuant to this Section 11.1(B).

(C) Within ten (10) days of the making of any proposal to amend this Agreement, the General Partner shall give all Partners Notice of such proposal (along with the text of the proposed amendment and a statement of its purposes).



Section 11.2 Meetings and Voting.

(A) Meetings of Partners may be called by the General Partner. The General Partner shall give all Partners Notice of the purpose of such proposed meeting not less than seven (7) days nor more than thirty (30) days prior to the date of the meeting. Meetings shall be held at a reasonable time and place selected by the General Partner. Whenever the vote or Consent of Partners is permitted or required hereunder, such vote or Consent shall be requested by the General Partner and may be given by the Partners in the same manner as set forth for a vote with respect to an amendment to this Agreement in Section 11.1(A).

(B) Any action required or permitted to be taken at a meeting of the Partners may be taken without a meeting if a written consent setting forth the action to be taken is signed by the Partners owning Percentage Interests required to vote in favor of such action, which consent may be evidenced in one or more instruments. Consents need not be solicited from any other Partner if the written consent of a sufficient number of Partners has been obtained to take the action for which such solicitation was required.

(C) Each Limited Partner may authorize any Person or Persons, including without limitation the General Partner, to act for him by proxy on all matters on which a Limited Partner may participate. Every proxy (i) must be signed by the Limited Partner or his attorney-in-fact, (ii) shall expire eleven (11) months from the date thereof unless the proxy provides otherwise and (iii) shall be revocable at the discretion of the Limited Partner granting such proxy.

Section 11.3 Voting of LB Units.

On any matter on which the Limited Partners shall be entitled to vote, consent or grant an approval or waiver, following the admissions of the LB Partners to the Partnership as Additional Limited Partners and through the Voting Termination Date, each holder of the LB Units shall be deemed (i) in connection with any matter submitted to a vote, to have cast all votes attributable to such holder's LB Units in the same manner as the votes attributable to the Units held by the General Partner are cast on such matter, and (ii) in connection with any consent, approval or waiver, to have taken the same action as the General Partner shall have taken with respect to its Units in connection therewith. If the General Partner shall not have the right to vote, consent or grant an approval or waiver on a matter, each holder of LB Units shall vote or act as directed by the General Partner.

ARTICLE XII - MISCELLANEOUS PROVISIONS

Section 12.1 Title to Property. All property owned by the Partnership, whether real or personal, tangible or intangible, shall be deemed to be owned by the Partnership as an entity, and no Partner, individually, shall have any ownership of such property. The Partnership may hold any of its assets in its own name or, in the name of its nominee, which nominee may be one or more individuals, corporations, partnerships, trusts or other entities.

Section 12.2 Other Activities of Limited Partners. Except as expressly provided otherwise in this Agreement or in any other agreement entered into by a Limited Partner or any Affiliate of a Limited Partner and the Partnership, the General Partner or any Subsidiary of the Partnership or the General Partner, any Limited Partner or any Affiliate of any Limited Partner may engage in, or possess an interest in, other business ventures of every nature and description, independently or with others, including, without limitation, real estate business ventures, whether or not such other enterprises shall be in competition with any activities of the Partnership, the

General Partner or any Subsidiary of the Partnership or the General Partner; and neither the Partnership, the General Partner, any such Subsidiary nor the other Partners shall have any right by virtue of this Agreement in and to such independent ventures or to the income or profits derived therefrom.

Section 12.3 Power of Attorney.

(A) Each Partner hereby irrevocably appoints and empowers the General Partner (which term shall include the Liquidator, in the event of a liquidation, for purposes of this Section 12.3) and each of their authorized officers and attorneys-in-fact with full power of substitution as his true and lawful agent and attorney-in-fact, with full power and authority in his name, place and stead to:

(1) make, execute, acknowledge, publish and file in the appropriate public offices (a) any duly approved amendments to the Certificate pursuant to the Act and to the laws of any state in which such documents are required to be filed; (b) any certificates, instruments or documents as may be required by, or may be appropriate under, the laws of any state or other jurisdiction in which the Partnership is doing or intends to do business; (c) any other instrument which may be required to be filed by the Partnership under the laws of any state or by any governmental agency, or which the General Partner deems advisable to file; (d) any documents which may be required to effect the continuation of the Partnership, the admission, withdrawal or substitution of any Partner pursuant to Article VIII, dissolution and termination of the Partnership pursuant to Article X, or the surrender of any rights or the assumption of any additional responsibilities by the General Partner; (e) any document which may be required to effect an amendment to this Agreement to correct any mistake, omission or inconsistency, or to cure any ambiguity herein, to the extent such amendment is permitted by Section 11.1(B); and (f) all instruments (including this Agreement and amendments and restatements hereof) relating to the determination of the rights, preferences and privileges of any class or series of Partnership Units issued pursuant to Section 4.2(B) of this Agreement; and

(2) sign, execute, swear to and acknowledge all voting ballots, consents, approvals, waivers, certificates and other instruments appropriate or necessary, in the sole discretion of the General Partner, to make, evidence, give, confirm or ratify any vote, consent, approval, agreement or other action which is made or given by the Partners hereunder or is consistent with the terms of this Agreement and appropriate or necessary, in the sole discretion of the General Partner, to effectuate the terms or intent of this Agreement.

(B) Nothing herein contained shall be construed as authorizing the General Partner to amend this Agreement except in accordance with Article XI or as may be otherwise expressly provided for in this Agreement.

(C) The foregoing grant of authority (i) is a special power of attorney, coupled with an interest, and it shall survive the Involuntary Withdrawal of any Partner and shall extend to such Partner's heirs, successors, assigns and personal representatives; (ii) may be exercised by the General Partner for each and every Partner acting as attorney-in-fact for each and every Partner; and (iii) shall survive the Transfer by a Limited Partner of all or any portion of its Interest and shall be fully binding upon such transferee; except that the power of attorney shall survive such assignment with respect to the assignor Limited Partner for the sole purpose of enabling the General Partner to execute, acknowledge and file any instrument necessary to effect the admission of the transferee as a Substitute Limited Partner. Each Partner hereby agrees to be bound by any representations made by the General Partner, acting in good faith pursuant to such power of attorney. Each Partner shall execute and deliver to the General Partner, within fifteen (15) days after receipt of the General Partner's request therefor, such further designations, powers of attorney and other instruments as the General Partner deems necessary to effectuate this Agreement and the purposes of the Partnership.

(D) Each LB Partner hereby irrevocably appoints and empowers the General Partner and the Liquidator, in the event of a liquidation, and each of their authorized officers and attorneys-in-fact with full power of substitution, as the true and lawful agent and attorney-in-fact of such LB Partner with full power and authority in the name, place and stead of such LB Partner to take such actions (including waivers under the Partnership Agreement) or refrain from taking such action as the General Partner reasonably believes are necessary or desirable to achieve the purposes of Section 11.3 of the Partnership Agreement.

Section 12.4 Notices. All notices and other communications provided for or permitted hereunder shall be made in writing by hand delivery, registered first-class mail, telex, telecopier, or any courier guaranteeing overnight delivery, (i) if to a Limited Partner, at the most current address given by such Limited Partner to the General Partner by means of a notice given in accordance with the provisions of this Section 12.4, which address initially is the address contained in the records of the General Partner, or (ii) if to the General Partner, 150 North Wacker Drive, Suite 150, Chicago, Illinois 60606, Attn: President.

All such notices and communications shall be deemed to have been duly given: at the time delivered by hand, if hand delivered; five business days after being deposited in the mail, postage prepaid, if mailed; when answered back, if telexed; or when receipt is acknowledged, if telecopied.

Section 12.5 Further Assurances. The parties agree to execute and deliver all such documents, provide all such information and take or refrain from taking any action as may be necessary or desirable to achieve the purposes of this Agreement and the Partnership.

Section 12.6 Titles and Captions. All article or section titles or captions in this Agreement are solely for convenience and shall not be deemed to be part of this Agreement or otherwise define, limit or extend the scope or intent of any provision hereof.

Section 12.7 Applicable Law. This Agreement, and the application or interpretation thereof, shall be governed exclusively by its terms and by the law of the State of Delaware, without regard to its principles of conflicts of laws.

Section 12.8 Binding Agreement. This Agreement shall be binding upon the parties hereto, their heirs, executors, personal representatives, successors and assigns.

Section 12.9 Waiver of Partition. Each of the parties hereto irrevocably waives during the term of the Partnership any right that it may have to maintain any action for partition with respect to any property of the Partnership.

Section 12.10 Counterparts and Effectiveness. This Agreement may be executed in several counterparts, which shall be treated as originals for all purposes, and all so executed shall constitute one agreement, binding on all of the parties hereto, notwithstanding that all the parties are not signatory to the original or the same counterpart. Any such counterpart shall be admissible into evidence as an original hereof against each Person who executed it. The execution of this Agreement and delivery thereof by facsimile shall be sufficient for all purposes, and shall be binding upon any party who so executes.

Section 12.11 Survival of Representations. All representations and warranties herein shall survive the dissolution and final liquidation of the Partnership.

Section 12.12 Entire Agreement. This Agreement (and all Exhibits hereto) contains the entire understanding among the parties hereto and supersedes all prior written or oral agreements among them respecting the within subject matter, unless otherwise provided herein. There are no representations, agreements, arrangements or understandings, oral or written, among the Partners hereto relating to the subject matter of this Agreement which are not fully expressed herein and in said Exhibits.

IN WITNESS WHEREOF, this Agreement has been duly executed and delivered by the parties hereto as of the day and year first above written.

General Partner:

FIRST INDUSTRIAL REALTY  
TRUST, INC., as sole General  
Partner of the Partnership

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

FIRST INDUSTRIAL REALTY  
TRUST, INC., as Class B  
Limited Partner

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

## EXHIBIT 1A

	Number of Units
First Highland Partners	
Farlow Road Associates Limited Partnership	2,751
Highland Associates Limited Partnership	69,039
Peter Murphy	56,184
North Star Associates Limited Partnership	19,333
Arden O'Connor	63,845
Peter O'Connor	118,281
Partridge Road Associates Limited Partnership	2,751
Shadeland Associates Limited Partnership	42,975
Shadeland Corporation	4,442
Kevin Smith	13,571
Jonathan Stott	182,126

## Schedule of Partners

General Partner	Number of Units
First Industrial Realty Trust, Inc.	30,043,617
Limited Partners	
Daniel R. Andrew, TR of the Daniel R. Andrew Trust UA Dec 29 92	137,489
BK Columbus Venture	24,789
John E. de B Blockey, TR of the John E. De B Blockey Trust	8,187
Michael W. Brennan	7,587
Henry D. Bullock & Terri D. Bullock & Shawn Stevenson TR of the Bullock Childrens Education Trust UA Dec 20 94 FBO Benjamin Dure Bullock	770
Henry D. Bullock & Terri D. Bullock & Shawn Stevenson TR of the Bullock childrens Education Trust UA Dec 20 94 FBO Christine Laurel Bullock	770
Edward Burger	9,261
Henry D. Bullock & Terri D. Bullock TR of the Henry D. & Terri D. Bullock Trust UA Aug 28 92	12,551
Michael G. Damone, TR of the Michael G. Damone Trust UA Nov 4 69	144,296
Robert L. Denton	6,286

General Partner	Number of Units
Henry E. Dietz Trust UA Jan 16 81	36,476
W. Allen Doane TR of the W. Allen Doane Trust UA May 31, 91	4,416
Timothy Donohue	2,000
Farlow Road Associates Limited Partnership	2,751
Thelma C. Gretzinger Trust	450
Clay Hamlin & Lynn Hamlin JT TEN WROS	15,159
Highland Associates Limited Partnership	69,039
Robert W. Holman, Jr.	150,134
Steven B. Hoyt	250,000
Federick K. Ito	3,880
Michael W. Jenkins	3,831
Peter Kepic	9,261
Paul T. Lambert	39,737
Lambert Investment Corporation	13,606
LGR Investment Fund Ltd	22,556
Duane Lund	13,617
Eileen Millar	2,880



General Partner	Number of Units
Linda Miller	2,000
Peter Murphy	56,184
Anthony Muscatello	81,654
North Star Associates Limited Partnership	19,333
Arden O'Connor	63,845
Peter O'Connor	66,181
Shidler Equities LP	254,541
Eduardo Paneque	2,000
Partridge Road Associates Limited Partnership	2,751
James C. Reynolds	38,697
Shadeland Associates Limited Partnership	42,976
Shadeland Corporation	4,442
Jay H. Shidler	65,118
Jay H. Shidler & Walette A. Shidler TEN ENT	1,223
Michael B. Slade	2,829
Kevin Smith	13,571

General Partner	Number of Units
Robert Stein	56,778
S. Larry Stein	56,778
Jonathan Stott	130,026
Michael T. Tomasz	23,868
Mark S. Whiting	25,206
Holman/Shidler Investment Corporation	22,079
Joseph Dresner	149,531
The Milton Dresner Revocable Trust dated October 22, 1976	149,531
The Jack Freidman Revocable Living Trust dated March 23, 1978	26,005
Jernie Holdings Corp.	180,499
Fourbur Family Co., L.P.	50,478
Fourbur Co., L.L.C.	27,987
Jerome Lazarus	18,653
Constance Lazarus	417,961
Susan Burman	523,155
Judith Draizin	331,742

General Partner	Number of Units
Jan Burman	18,653
Danielle Draizin	6,538
Heather Draizin	6,538
Jason Draizin	13,078

LB Partners

Jernie Holdings Corp., a New York corporation

Fourbur Family Co., L.P., a New York limited partnership

Fourbur Co., L.L.C., a New York limited liability company

Jerome Lazarus

Constance Lazarus

Susan Burman

Judith Draizin

Jan Burman

Judith Draizin as custodian  
under the NYUGMA until  
the age of 21 for Danielle Draizin

Judith Draizin as custodian  
under the NYUGMA until  
the age of 21 for Heather Draizin

Judith Draizin as custodian  
under the NYUGMA until  
the age of 21 for Jason Draizin

Exhibit 1D

	Additional Limited Partners	Additional Limited Partners Protected Amount	Transferee Partner	Transferee Partner Protected Amount
1.	Lazarus Burman Associates	100,000	Jerome Lazarus Jan Burman	100,000 0
2.	Jan Burman Management Company	200,000	Jerome Lazarus Jan Burman	100,000 100,000
3.	Jerry Lazarus Management Co.	2,500,000	Jerome Lazarus Jan Burman	1,260,394 1,239,606
4.	Connie Lazarus Management Company	600,000	Jerome Lazarus Jan Burman	305,792 294,208
5.	Red Ground Co.	4,000,000	Jerome Lazarus Jan Burman	2,307,610 1,692,390
6.	Surrey Company	6,700,000	Jerome Lazarus Jan Burman	3,350,000 3,350,000
7.	Jernie Investors Co.	900,000	Constance Lazarus Susan Burman Judith Draizin Jernie Holdings Corp.	720,000 180,000 0 0
8.	109 Industrial Co., LLC	4,300,000	Jerome Lazarus Jan Burman	4,228,630 71,370
9.	LB Management Co.	5,600,000	Jerome Lazarus Jan Burman	5,507,043 92,943
10.	JOHJ Co.	1,200,000	Judith Draizin	1,200,000
11.	Laz-Bur co	900,000	Constance Lazarus Susan Burman	449,990 450,010
	<b>Total</b>	<b>27,000,000</b>		<b>27,000,000</b>

EXHIBIT 1D

	Total by Transferee Partner	Protected Amount
1.	Jan Burman	(6,300,000)
2.	Jerome Lazarus	(17,000,000)
3.	Constance Lazarus	(3,600,000)
4.	Hernie Holdings Corp.	(100,000)
	<b>Total</b>	<b>(27,000,000)</b>

FIRST INDUSTRIAL, L.P.

EXHIBIT 2

TO

THIRD AMENDED AND RESTATED  
LIMITED PARTNERSHIP AGREEMENT

Form of Redemption Notice

Redemption Notice

The undersigned hereby irrevocably (i) elects to exercise its redemption rights contained in Section 9.1(A) of the Second Amended and Restated Limited Partnership Agreement of First Industrial, L.P. (the "Partnership Agreement") with respect to an aggregate of \_\_\_\_\_ Partnership Units (as defined in the Partnership Agreement), (ii) surrenders such Partnership Units and all right, title and interest therein and (iii) directs that the REIT shares (as defined in the Partnership Agreement), or applicable cash amount if so determined by the General Partner (as defined in the Partnership Agreement) in accordance with the Partnership Agreement, deliverable upon redemption of such Partnership Units be delivered to the address specified below.

Dated: \_\_\_\_\_

Name of Limited Partner: \_\_\_\_\_

Social Security or  
Federal Employer ID Number: \_\_\_\_\_

-----  
(Signature of Limited Partner)

-----  
(Street Address)

-----  
(City) (State) (Zip Code)

Signature Guaranteed by:

FIRST INDUSTRIAL, L.P.

EXHIBIT 3

TO

THIRD AMENDED AND RESTATED

LIMITED PARTNERSHIP AGREEMENT

Form of Registration Rights Agreement



REGISTRATION RIGHTS AGREEMENT

Dated as of June \_\_, 1994

of

First Industrial Realty Trust, Inc.

for the benefit of

HOLDERS OF LIMITED PARTNERSHIP UNITS

of

First Industrial, L.P.

## REGISTRATION RIGHTS AGREEMENT

THIS REGISTRATION RIGHTS AGREEMENT (this "Agreement") is made and entered into as of June , 1994, by First Industrial Realty Trust, Inc. (the "Company") for the benefit of the persons who own limited partnership units ("Units") of First Industrial, L.P. (the "Partnership") on the date hereof and their successors, assigns and transferees (herein referred to collectively as the "Holders" and individually as a "Holder").

WHEREAS, on the date hereof each Holder is or will become the owner of Units in the Partnership in connection with the contribution (the "Contributions") of certain real properties and other assets to the Partnership;

WHEREAS, on the date hereof the Company is consummating an initial public offering of its common stock and is becoming the sole general partner of the Partnership;

WHEREAS, in connection with the foregoing, the Company has agreed, subject to the terms, conditions and limitations set forth in the limited partnership agreement of the Partnership (the "Partnership Agreement"), to provide the Holders with certain registration rights.

NOW, THEREFORE, the Company for the benefit of the Holders agrees as follows:

### Section 1. Definitions.

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

Exchange Act: The Securities Exchange Act of 1934, as amended from time to time.

Holder or Holders: As set forth in the preamble.

Majority Holders: At any time, Holders of Registrable Securities and Units then redeemable for Registrable Securities who, if all such Units were so redeemed, would then hold a majority of the Registrable Securities.

NASD: The National Association of Securities Dealers, Inc.

Person: Any individual, partnership, corporation, trust or other entity.

Prospectus: A prospectus included in the Shelf Registration Statement, including any preliminary prospectus, and any such prospectus as amended or supplemented by any prospectus supplement with respect to the terms of the offering of any portion of the Registrable Securities covered by the Shelf Registration Statement, and by all other amendments and supplements to such prospectus, including post-effective amendments, and in each case including all material incorporated by reference therein.

Registrable Securities: The Shares, excluding (i) Shares for which the Shelf Registration Statement shall have become effective under the Securities Act and which have been disposed of under the Shelf Registration Statement, (ii) Shares sold or otherwise distributed pursuant to Rule 144 under the Securities Act and (iii) Shares as to which registration under the Securities Act is not required to permit the sale thereof to the public.

Registration Expenses: shall mean any and all expenses incident to performance of or compliance with this Agreement, including, without limitation: (i) all SEC, stock exchange or NASD registration and filing fees, (ii) all fees and expenses incurred in connection with compliance with state securities or blue sky laws

(including reasonable fees and disbursements of counsel in connection with blue sky qualification of any of the Registrable Securities and the preparation of a Blue Sky Memorandum) and compliance with the rules of the NASD, (iii) all expenses of any Persons in preparing or assisting in preparing, word processing, printing and distributing the Shelf Registration Statement, any Prospectus, certificates and other documents relating to the performance of and compliance with this Agreement, (iv) all fees and expenses incurred in connection with the listing, if any, of any of the Registrable Securities on any securities exchange or exchanges pursuant to Section 3(1) hereof, and (v) the fees and disbursements of counsel for the Company and of the independent public accountants of the Company, including the expenses of any special audits or "cold comfort" letters, if any, required by or incident to such performance and compliance. Registration Expenses shall specifically exclude underwriting discounts and commissions, brokerage or dealer fees, the fees and disbursements of counsel, accountants or other representatives of a selling Holder, and transfer taxes, if any, relating to the sale or disposition of Registrable Securities by a selling Holder, all of which shall be borne by such Holder in all cases.

Registration Notice: As set forth in Section 3(b) hereof.

Sale Period: The 45-day period immediately following the filing with the SEC by the Company of an annual report of the Company on Form 10-K or a quarterly report of the Company on Form 10-Q or such other period as the Company may determine.

SEC: The Securities and Exchange Commission.

Securities Act: The Securities Act of 1933, as amended from time to time.

Shares: The shares of common stock, \$.01 par value, of the Company issued to Holders of Units upon redemption or exchange of their Units.

Shelf Registration: A registration required to be effected pursuant to Section 2 hereof.

Shelf Registration Statement: shall mean a "shelf" registration statement of the Company and any other entity required to be a registrant with respect to such shelf registration statement pursuant to the requirements of the Securities Act which covers all of the Registrable Securities on an appropriate form under Rule 415 under the Securities Act, or any similar rule that may be adopted by the SEC, and all amendments and supplements to such registration statement, including post-effective amendments, in each case including the Prospectus contained therein, all exhibits thereto and all materials incorporated by reference therein.

Units: Limited partnership interests in the Partnership issued to the Holders in connection with the Contributions.

Section 2. Shelf Registration Under the Securities Act.

(a) Filing of Shelf Registration Statement. Within 13 months following the date hereof, the Company shall cause to be filed a Shelf Registration Statement providing for the sale by the Holders of all of the Registrable Securities in accordance with the terms hereof and will use its reasonable best efforts to cause such Shelf Registration Statement to be declared effective by the SEC as soon as reasonably practicable. The Company agrees to use its reasonable best efforts to keep the Shelf Registration Statement continuously effective under the Securities Act until such time as the aggregate number of Units and Registrable Securities outstanding is less than 5% of the aggregate number of Units outstanding on the date hereof (after giving effect to the Contributions) and, subject to Section 3(b) and Section 3(i), further agrees to supplement or amend the Shelf Registration Statement, if and as

required by the rules, regulations or instructions applicable to the registration form used by the Company for such Shelf Registration Statement or by the Securities Act or by any other rules and regulations thereunder for Shelf Registration. Each Holder who sells Shares as part of the Shelf Registration shall be deemed to have agreed to all of the terms and conditions of this Agreement and to have agreed to perform any and all obligations of a Holder hereunder.

(b) Expenses. The Company shall pay all Registration Expenses in connection with the registration pursuant to Section 2(a). Each Holder shall pay all underwriting discounts and commissions, brokerage or dealer fees, the fees and disbursements of counsel, accountants or other representatives of such Holder and transfer taxes, if any, relating to the sale or disposition of such Holder's Registrable Securities pursuant to the Shelf Registration Statement or Rule 144 under the Securities Act.

(c) Inclusion in Shelf Registration Statement. Not later than 30 days prior to filing the Shelf Registration Statement with the SEC, the Company shall notify each Holder of its intention to make such filing and request advice from each Holder as to whether such Holder desires to have Registrable Securities held by it or which it is entitled to receive not later than the last day of the first Sale Period occurring in whole or in part after the date of such notice included in the Shelf Registration Statement at such time. Any Holder who does not provide the information reasonably requested by the Company in connection with the Shelf Registration Statement as promptly as practicable after receipt of such notice, but in no event later than 20 days thereafter, shall not be entitled to have its Registrable Securities included in the Shelf Registration Statement at the time it becomes effective, but shall have the right thereafter to deliver to the Company a Sale Notice as contemplated by Section 3(b).

### Section 3. Registration Procedures.

In connection with the obligations of the Company with respect to the Shelf Registration Statement pursuant to Section 2 hereof, the Company shall:

(a) prepare and file with the SEC, within the time period set forth in Section 2(a) hereof, a Shelf Registration Statement, which Shelf Registration Statement (i) shall be available for the sale of the Registrable Securities in accordance with the intended method or methods of distribution by the selling Holders thereof and (ii) shall comply as to form in all material respects with the requirements of the applicable form and include all financial statements required by the SEC to be filed therewith.

(b) subject to the last three sentences of this Section 3(b) and to Section 3(i) hereof, (i) prepare and file with the SEC such amendments and post-effective amendments to the Shelf Registration Statement as may be necessary to keep the Shelf Registration Statement effective for the applicable period; (ii) cause each Prospectus to be supplemented by any required prospectus supplement, and as so supplemented to be filed pursuant to Rule 424 or any similar rule that may be adopted under the Securities Act; (iii) respond promptly to any comments received from the SEC with respect to the Shelf Registration Statement, or any amendment, post-effective amendment or supplement relating thereto; and (iv) comply with the provisions of the Securities Act with respect to the disposition of all securities covered by the Shelf Registration Statement during the applicable period in accordance with the intended method or methods of distribution by the selling Holders thereof. Notwithstanding anything to the contrary contained herein, the Company shall not be required to take any of the actions described in clauses (i), (ii) or (iii) above with respect to each particular Holder of Registrable Securities unless and until the Company has received either a written notice (a "Registration Notice") from a Holder that such Holder intends to make offers or sales under the Shelf Registration Statement as specified in such Registration Notice or a written response from such Holder of the type contemplated by Section 2(c); provided, however, that the Company shall have 7 business days to prepare and file any such amendment or supplement after receipt of a Registration Notice.

Once a Holder has delivered such a written response or a Registration Notice to the Company, such Holder shall promptly provide to the Company such information as the Company reasonably requests in order to identify such Holder and the method of distribution in a post-effective amendment to the Shelf Registration Statement or a supplement to a Prospectus. Offers or sales under the Shelf Registration Statement may be made only during a Sale Period. Such Holder also shall notify the Company in writing upon completion of such offer or sale or at such time as such Holder no longer intends to make offers or sales under the Shelf Registration Statement.

(c) furnish to each Holder of Registrable Securities that has delivered a Registration Notice to the Company, without charge, as many copies of each applicable Prospectus, including each preliminary Prospectus, and any amendment or supplement thereto and such other documents as such Holder may reasonably request, in order to facilitate the public sale or other disposition of the Registrable Securities; the Company consents to the use of such Prospectus, including each preliminary Prospectus, by each such Holder of Registrable Securities in connection with the offering and sale of the Registrable Securities covered by such Prospectus or the preliminary Prospectus.

(d) use its reasonable best efforts to register or qualify the Registrable Securities by the time the Shelf Registration Statement is declared effective by the SEC under all applicable state securities or "blue sky" laws of such jurisdictions as any Holder of Registrable Securities covered by the Shelf Registration Statement shall reasonably request in writing, keep each such registration or qualification effective during the period the Shelf Registration Statement is required to be kept effective or during the period offers or sales are being made by a Holder that has delivered a Registration Notice to the Company, whichever is shorter, and do any and all other acts and things which may be reasonably necessary or advisable to enable such Holder to consummate the disposition in each such jurisdiction of such Registrable Securities owned by such Holder; provided, however, that the Company shall not be required (i) to qualify generally to do business in any jurisdiction or to register as a broker or dealer in such jurisdiction where it would not be required so to qualify or register but for this Section 3(d), (ii) to subject itself to taxation in any such jurisdiction or (iii) to submit to the general service of process in any such jurisdiction.

(e) notify each Holder when the Shelf Registration Statement has become effective and notify each Holder of Registrable Securities that has delivered a Registration Notice to the Company promptly and, if requested by such Holder, confirm such advice in writing (i) when any post-effective amendments and supplements to the Shelf Registration Statement become effective, (ii) of the issuance by the SEC or any state securities authority of any stop order suspending the effectiveness of the Shelf Registration Statement or the initiation of any proceedings for that purpose, (iii) if the Company receives any notification with respect to the suspension of the qualification of the Registrable Securities for sale in any jurisdiction or the initiation of any proceeding for such purpose and (iv) of the happening of any event during the period the Shelf Registration Statement is effective as a result of which the Shelf Registration Statement or a related Prospectus contains any untrue statement of a material fact or omits to state any material fact required to be stated therein or necessary to make the statements therein (in the case of the Prospectus, in light of the circumstances under which they were made) not misleading.

(f) make every reasonable effort to obtain the withdrawal of any order suspending the effectiveness of the Shelf Registration Statement at the earliest possible moment.

(g) furnish to each Holder of Registrable Securities that has delivered a Registration Notice to the Company, without charge, at least one conformed copy of the Shelf Registration Statement and any post-effective amendment thereto (without documents incorporated therein by reference or exhibits thereto, unless requested).

(h) cooperate with the selling Holders of Registrable Securities to facilitate the timely preparation and delivery of certificates representing Registrable Securities to be sold and not bearing any Securities Act legend; and enable certificates for such Registrable Securities to be issued for such numbers of shares and registered in such names as the selling Holders may reasonably request at least two business days prior to any sale of Registrable Securities.

(i) subject to the last three sentences of Section 3(b) hereof, upon the occurrence of any event contemplated by Section 3(e)(iv) hereof, use its reasonable best efforts promptly to prepare and file a supplement or prepare, file and obtain effectiveness of a post-effective amendment to the Shelf Registration Statement or a related Prospectus or any document incorporated therein by reference or file any other required document so that, as thereafter delivered to the purchasers of the Registrable Securities, such Prospectus will not contain any untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading.

(j) make available for inspection by representatives of the Holders of the Registrable Securities and any counsel or accountant retained by such Holders, all financial and other records, pertinent corporate documents and properties of the Company, and cause the respective officers, directors and employees of the Company to supply all information reasonably requested by any such representative, counsel or accountant in connection with the Shelf Registration Statement; provided, however, that such records, documents or information which the Company determines in good faith to be confidential, and notifies such representatives, counsel or accountants in writing that such records, documents or information are confidential, shall not be disclosed by the representatives, counsel or accountants unless (i) the disclosure of such records, documents or information is necessary to avoid or correct a material misstatement or omission in the Shelf Registration Statement, (ii) the release of such records, documents or information is ordered pursuant to a subpoena or other order from a court of competent jurisdiction or (iii) such records, documents or information have been generally made available to the public otherwise than in violation of this Agreement.

(k) a reasonable time prior to the filing of any Prospectus, any amendment to the Shelf Registration Statement or amendment or supplement to a Prospectus, provide copies of such document (not including any documents incorporated by reference therein unless requested) to the Holders of Registrable Securities that have provided a Registration Notice to the Company.

(l) use its reasonable best efforts to cause all Registrable Securities to be listed on any securities exchange on which similar securities issued by the Company are then listed.

(m) obtain a CUSIP number for all Registrable Securities, not later than the effective date of the Shelf Registration Statement.

(n) otherwise use its reasonable efforts to comply with all applicable rules and regulations of the SEC and make available to its security holders, as soon as reasonably practicable, an earnings statement covering at least 12 months which shall satisfy the provisions of Section 11(a) of the Securities Act and Rule 158 thereunder.

(o) use its reasonable best efforts to cause the Registrable Securities covered by the Shelf Registration Statement to be registered with or approved by such other governmental agencies or authorities as may be necessary by virtue of the business and operations of the Company to enable Holders that have delivered Registration Notices to the Company to consummate the disposition of such Registrable Securities.

The Company may require each Holder of Registrable Securities to furnish to the Company in writing such information regarding the proposed distribution by such Holder of such Registrable Securities as the Company may from time to time reasonably request in writing.

In connection with and as a condition to the Company's obligations with respect to the Shelf Registration Statement pursuant to Section 2 hereof and this Section 3, each Holder agrees that (i) it will not offer or sell its Registrable Securities under the Shelf Registration Statement until (A) it has either (1) provided a Registration Notice pursuant to Section 3(b) hereof or (2) had Registrable Securities included in the Shelf Registration Statement at the time it became effective pursuant to Section 2(c) hereof and (B) it has received copies of the supplemented or amended Prospectus contemplated by Section 3(b) hereof and receives notice that any post-effective amendment has become effective; (ii) upon receipt of any notice from the Company of the happening of any event of the kind described in Section 3(b)(iv) hereof, such Holder will forthwith discontinue disposition of Registrable Securities pursuant to the Shelf Registration Statement until such Holder receives copies of the supplemented or amended Prospectus contemplated by Section 3(i) hereof and receives notice that any post-effective amendment has become effective, and, if so directed by the Company, such Holder will deliver to the Company (at the expense of the Company) all copies in its possession, other than permanent file copies then in such Holder's possession, of the Prospectus covering such registrable Securities current at the time of receipt of such notice; and (iii) all offers and sales under the Shelf Registration Statement shall be completed within forty-five (45) days after the first date on which offers or sales can be made pursuant to clause (i) above, and upon expiration of such forty-five (45) day period the Holder will not offer or sell its Registrable Securities under the Shelf Registration Statement until it has again complied with the provisions of clauses (i)(A)(1) and (B) above, except that if the applicable Registration Notice was delivered to the Company at a time which was not part of a Sale Period, such forty-five (45) day period shall be the next succeeding Sale Period.

#### Section 4. Restrictions on Public Sale by Holders of Registrable Securities.

Each Holder agrees with the Company that:

(a) If the Company determines in its good faith judgment, after consultation with counsel, that the filing of the Shelf Registration Statement under Section 2 hereof or the use of any Prospectus would require the disclosure of important information which the Company has a bona fide business purpose for preserving as confidential or the disclosure of which would impede the Company's ability to consummate a significant transaction, upon written notice of such determination by the Company, the rights of the Holders to offer, sell or distribute any Registrable Securities pursuant to the Shelf Registration Statement or to require the Company to take action with respect to the registration or sale of any Registrable Securities pursuant to the Shelf Registration Statement (including any action contemplated by Section 3 hereof) will be suspended until the date upon which the Company notifies the Holders in writing that suspension of such rights for the grounds set forth in this Section 4(a) is no longer necessary.

(b) In the case of the registration of any underwritten equity offering proposed by the Company (other than any registration by the Company on Form S-8, or a successor or substantially similar form, of (i) an employee stock option, stock purchase or compensation plan or of securities issued or issuable pursuant to any such plan or (ii) a dividend reinvestment plan), each Holder agrees, if requested in writing by the managing underwriter or underwriters administering such offering, not to effect any offer, sale or distribution of Registrable Securities (or any option or right to acquire Registrable Securities) during the period commencing on the 10th day prior to the expected effective date (which date shall be stated in such notice) of the registration statement covering such underwritten primary equity offering and ending on the date specified by such managing underwriter in such

written request to such Holder, which date shall not be later than six months after such expected date of effectiveness.

(c) In the event that any Holder uses a Prospectus in connection with the offering and sale of Registrable Securities covered by such Prospectus, such Holder will use only the latest version of such Prospectus provided to it by the Company.

#### Section 5. Indemnification; Contribution.

(a) Indemnification by the Company. The Company agrees to indemnify and hold harmless each Holder and its officers and directors and each person, if any, who controls any Holder within the meaning of Section 15 of the Securities Act as follows:

(i) against any and all loss, liability, claim, damage and expense whatsoever, as incurred, arising out of any untrue statement or alleged untrue statement of a material fact contained in the Shelf Registration Statement (or any amendment thereto) or any Prospectus, including all documents incorporated therein by reference, or the omission or alleged omission therefrom of a material fact necessary in order to make the statements therein, in light of the circumstances under which they were made, not misleading;

(ii) against any and all loss, liability, claim, damage and expense whatsoever, as incurred, to the extent of the aggregate amount paid in settlement of any litigation, or investigation or proceeding by any governmental agency or body, commenced or threatened, or of any claim whatsoever based upon any such untrue statement or omission, or any such alleged untrue statement or omission, if such settlement is effected with the written consent of the Company; and

(iii) against any and all expense whatsoever, as incurred (including reasonable fees and disbursements of counsel), reasonably incurred in investigating, preparing or defending against any litigation, or investigation or proceeding by any governmental agency or body, commenced or threatened, in each case whether or not a party, or any claim whatsoever based upon any such untrue statement or omission, or any such alleged untrue statement or omission, to the extent that any such expense is not paid under clause (i) or (ii) above;

provided, however, that the indemnity provided pursuant to this Section 5(a) does not apply to any Holder with respect to any loss, liability, claim, damage or expense to the extent arising out of any untrue statement or omission or alleged untrue statement or omission made in reliance upon and in conformity with written information furnished to the Company by such Holder expressly for use in the Shelf Registration Statement (or any amendment thereto) or any Prospectus.

(b) Indemnification by Holders. Each Holder severally agrees to indemnify and hold harmless the Company and the other selling Holders, and each of their respective directors and officers (including each director and officer of the Company who signed the Shelf Registration Statement), and each person, if any, who controls the Company or any other selling Holder within the meaning of Section 15 of the Securities Act, to the same extent as the indemnity contained in Section 5(a) hereof (except that any settlement described in Section 5(a)(2) shall be effected with the written consent of such Holder), but only insofar as such loss, liability, claim, damage or expense arises out of or is based upon any untrue statement or omission, or alleged untrue statement or omission, made in the Shelf Registration Statement (or any amendment thereto) or any Prospectus in reliance upon and in conformity with written information furnished to the Company by such selling Holder expressly for use in the Shelf



Registration Statement (or any amendment thereto) or such Prospectus. In no event shall the liability of any Holder under this Section 5(b) be greater in amount than the dollar amount of the proceeds received by such Holder upon the sale of the Registrable Securities giving rise to such indemnification obligation.

(c) Each indemnified party shall give reasonably prompt notice to each indemnifying party of any action or proceeding commenced against it in respect of which indemnity may be sought hereunder, but failure so to notify an indemnifying party (i) shall not relieve it from any liability which it may have under the indemnity agreement provided in Section 5(a) or (b) unless and to the extent it did not otherwise learn of such action and the lack of notice by the indemnified party results in the forfeiture by the indemnifying party of substantial rights and defenses and (ii) shall not, in any event, relieve the indemnifying party from any obligations to any indemnified party other than the indemnification obligation provided under Section 5(a) or (b). If the indemnifying party so elects within a reasonable time after receipt of such notice, the indemnifying party may assume the defense of such action or proceeding at such indemnifying party's own expense with counsel chosen by the indemnifying party; provided, however, that, if such indemnified party or parties reasonably determine that a conflict of interest exists where it is advisable for such indemnified party or parties to be represented by separate counsel or that, upon advice of counsel, there may be legal defenses available to them which are different from or in addition to those available to the indemnifying party, then the indemnifying party shall not be entitled to assume such defense and the indemnified party or parties in the aggregate shall be entitled to one separate counsel at the indemnifying party's expense. If an indemnifying party is not so entitled to assume the defense of such action or does not assume such defense, after having received the notice referred to in the first sentence of this Section 5(c), the indemnifying party or parties will pay the reasonable fees and expenses of counsel for the indemnified party or parties. In such event however, no indemnifying party will be liable for any settlement effected without the written consent of such indemnifying party. If an indemnifying party is entitled to assume, and assumes, the defense of such action or proceeding in accordance with this paragraph, such indemnifying party shall not be liable for any fees and expenses of counsel for the indemnified parties incurred thereafter in connection with such action or proceeding.

(d) In order to provide for just and equitable contribution in circumstances in which the indemnity agreement provided for in this Section 5 is for any reason held to be unenforceable although applicable in accordance with its terms, the Company and the selling Holders shall contribute to the aggregate losses, liabilities, claims, damages and expenses of the nature contemplated by such indemnity agreement incurred by the Company and the selling Holders, in such proportion as is appropriate to reflect the relative fault of and benefits to the Company on the one hand and the selling Holders on the other (in such proportions that the selling Holders are severally, not jointly, responsible for the balance), in connection with the statements or omissions which resulted in such losses, liabilities, claims, damages or expenses, as well as any other relevant equitable considerations. The relative benefits to the indemnifying party and indemnified parties shall be determined by reference to, among other things, the total proceeds received by the indemnifying party and indemnified parties in connection with the offering to which such losses, liabilities, claims, damages, or expenses relate. The relative fault of the indemnifying party and indemnified parties shall be determined by reference to, among other things, whether the action in question, including any untrue or alleged untrue statement of a material fact or omission or alleged omission to state a material fact, has been made by, or relates to information supplied by, such indemnifying party or the indemnified parties, and the parties' relative intent, knowledge, access to information and opportunity to correct or prevent such action.

The Company and the Holders agree that it would not be just or equitable if contribution pursuant to this Section 5(d) were determined by pro rata allocation or by any other method of allocation which does not take account of the equitable considerations referred to in the immediately preceding paragraph. Notwithstanding the provisions of this Section 5(d), no selling Holder shall be required to contribute any amount in excess of the amount by which the total price at which the Registrable Securities of such selling Holder were offered to the public exceeds

the amount of any damages which such selling Holder is otherwise required to pay by reason of such untrue statement or omission.

Notwithstanding the foregoing, 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. For purposes of this Section 5(d), each Person, if any, who controls a Holder within the meaning of Section 15 of the Securities Act and directors and officers of a Holder shall have the same rights to contribution as such Holder, and each director of the Company, each officer of the Company who signed the Shelf Registration Statement and each Person, if any, who controls the Company within the meaning of Section 15 of the Securities Act shall have the same rights to contribution as the Company.

#### Section 6. Rule 144 Sales.

(a) The Company covenants that it will file the reports required to be filed by the Company under the Securities Act and the Exchange Act, so as to enable any Holder to sell Registrable Securities pursuant to Rule 144 under the Securities Act.

(b) In connection with any sale, transfer or other disposition by any Holder of any Registrable Securities pursuant to Rule 144 under the Securities Act, the Company shall cooperate with such Holder to facilitate the timely preparation and delivery of certificates representing Registrable Securities to be sold and not bearing any Securities Act legend, and enable certificates for such Registrable Securities to be for such number of shares and registered in such names as the selling Holders may reasonably request at least two business days prior to any sale of Registrable Securities.

#### Section 7. Miscellaneous.

(a) Amendments and Waivers. The provisions of this Agreement, including the provisions of this sentence, may not be amended, modified or supplemented, and waivers or consents to departures from the provisions hereof may not be given without the written consent of the Company and Holders constituting Majority Holders; provided, however, that no amendment, modification or supplement or waiver or consent to the departure with respect to the provisions of Sections 2, 3, 4, 5, 6 or 7(a) hereof or the definition of Registrable Securities or which would impair the rights of any Holder under such provisions, shall be effective as against any Holder of Registrable Securities or Units redeemable for Registrable Securities unless consented to in writing by such Holder of Registrable Securities or Units. Notice of any amendment, modification or supplement to this Agreement adopted in accordance with this Section 7(a) shall be provided by Company to each Holder of Registrable Securities or Units redeemable for Registrable Securities at least thirty (30) days prior to the effective date of such amendment, modification or supplement.

(b) Notices. All notices and other communications provided for or permitted hereunder shall be made in writing by hand delivery, registered first-class mail, telex, telecopier or any courier guaranteeing overnight delivery, (i) if to a Holder, at the most current address given by such Holder to the Company by means of a notice given in accordance with the provisions of this Section 7(b), which address initially is, with respect to each Holder, the address set forth in the Partnership Agreement, or (ii) if to the Company, at 150 N. Wacker Drive, Suite 150, Chicago, Illinois 60606, Attention: President.

All such notices and communications shall be deemed to have been duly given: at the time delivered by hand, if personally delivered; five business days after being deposited in the mail, postage prepaid,

if mailed; when answered back, if telexed; when receipt is acknowledged, if telecopied; or at the time delivered if delivered by an air courier guaranteeing overnight delivery.

(c) Successors and Assigns. This Agreement shall inure to the benefit of and be binding upon the successors, assigns and transferees of each of the Company and the Holders, including without limitation and without the need for an express assignment, subsequent Holders. If any successor, assignee or transferee of any Holder shall acquire Registrable Securities, in any manner, whether by operation of law or otherwise, such Registrable Securities shall be held subject to all of the terms of this Agreement, and by taking and holding such Registrable Securities such Person shall be entitled to receive the benefits hereof and shall be conclusively deemed to have agreed to be bound by all of the terms and provisions hereof.

(d) Headings. The headings in this Agreement are for the convenience of reference only and shall not limit or otherwise affect the meaning hereof.

(e) GOVERNING LAW. THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF MARYLAND WITHOUT GIVING EFFECT TO THE CONFLICTS OF LAW PROVISIONS THEREOF.

(f) Specific Performance. The Company and the Holders acknowledge that there would be no adequate remedy at law if any party fails to perform any of its obligations hereunder, and accordingly agree that the Company and each Holder, in addition to any other remedy to which it may be entitled at law or in equity, shall be entitled to compel specific performance of the obligations of another under this Agreement in accordance with the terms and conditions of this Agreement in any court of the United States or any State thereof having jurisdiction.

(g) Entire Agreement. This Agreement is intended by the Company as a final expression of its agreement and is intended to be a complete and exclusive statement of the agreement and understanding of the Company in respect of the subject matter contained herein. This Agreement supersedes all prior agreements and understandings of the Company with respect to such subject matter.

IN WITNESS WHEREOF, the Company has executed this Agreement as of the date first written above.

FIRST INDUSTRIAL REALTY TRUST, INC.

By:

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Name:

Title: