Table of Contents

As filed with the Securities and Exchange Commission on November 13, 2003

Registration No. 333-

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

FORM S-11

REGISTRATION STATEMENT
UNDER
THE SECURITIES ACT OF 1933

ARBOR REALTY TRUST, INC.

(Exact Name of Registrant as Specified in its Governing Instruments)

333 Earle Ovington Boulevard
Suite 900
Uniondale, New York 11553
(516) 832-8002
(Address, Including Zip Code, and Telephone Number, Including Area Code, of Registrant's Principal Executive Offices)

Frederick C. Herbst
Chief Financial Officer and Treasurer
Arbor Realty Trust, Inc.
333 Earle Ovington Boulevard
Suite 900
Uniondale, New York 11553
(516) 832-7408
(Name, Address, Including Zip Code, and Telephone Number, Including Area Code, of Agent for Service)

Copies to:
David J. Goldschmidt
Skadden, Arps, Slate, Meagher & Flom LLP
Four Times Square
New York, New York 10036-6522
(212) 735-3000

Approximate date of commencement of proposed sale to the public: As soon as practicable after this registration statement becomes effective.

If this Form is filed to register additional securities for an offering pursuant to Rule 462(b) under the Securities Act, please check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering. ☐

If this Form is a post-effective amendment filed pursuant to Rule 462(c) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering. ☐

If this Form is a post-effective amendment filed pursuant to Rule 462(d) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering. ☐

If delivery of the prospectus is expected to be made pursuant to Rule 434, check the following box. ☐

Table of Contents

CALCULATION OF REGISTRATION FEE

Title of Securities Being Registered	Amount Being Registered	Proposed Maximum Offering Price(1)	Proposed Maximum Aggregate Offering Price	Amount of Registration Fee
Units, each consisting of five shares of Common Stock, par value $.01 per share, and one Warrant to purchase one share of Common Stock	1,602,833	$ 75.00	$ 120,212,475	$ 9,725.19
Common Stock, par value $.01 per share, comprising a portion of the Units	8,014,165	(2)	(2)	(2)
Warrants, comprising a portion of the Units	1,602,833	(2)	(2)	(2)
Common Stock, $.01 par value per share, issuable upon exercise of the Warrants	1,602,833	$ 15.00	$ 24,042,495	$ 1,945.04
Total			$ 144,254,970	$ 11,670.23

(1) Estimated based on a bona fide estimate of the maximum aggregate offering price solely for the purposes of calculating the registration fee pursuant to Rule 457(a) of the Securities Act of 1933.

(2) Such securities will be offered at no additional cost. As a result, no additional registration fee is required with respect therein.

The registrant hereby amends this registration statement on such date or dates as may be necessary to delay its effective date until the registrant shall file a further amendment which specifically states that this registration statement shall thereafter become effective in accordance with Section 8(a) of the Securities Act of 1933 or until the registration statement shall become effective on such date as the Securities and Exchange Commission acting, pursuant to said Section 8(a), may determine.

Table of Contents

The information in this prospectus is not complete and may be changed or supplemented. The securities described in this prospectus cannot be sold until the registration statement that we have filed to cover the securities has become effective under the rules of the Securities and Exchange Commission. This prospectus is not an offer to sell the securities, nor is it a solicitation of an offer to buy the securities in any jurisdiction where an offer or sale is not permitted.

SUBJECT TO COMPLETION, DATED NOVEMBER 13, 2003

PROSPECTUS

[ARBOR LOGO]

Arbor Realty Trust, Inc.

1,602,833 Units

8,014,165 Shares of Common Stock Comprising the Units
1,602,833 Warrants Comprising the Units
1,602,833 Shares of Common Stock Underlying the Warrants

Arbor Realty Trust, Inc. invests in a diversified portfolio of multi-family and commercial real estate related bridge and mezzanine loans, preferred equity investments and other real estate related assets. Arbor Commercial Mortgage, LLC manages our operations. We will elect to be taxed as a real estate investment trust, or REIT, under the Internal Revenue Code, and generally will not be subject to federal taxes on our income to the extent that we distribute our income to stockholders and maintain our qualification as a REIT.

This prospectus relates to the resale of up to 1,602,833 of our units, each consisting of five shares of our common stock, $.01 par value per share, and one warrant to purchase an additional share of common stock, 8,014,165 shares of common stock comprising the units, 1,602,833 warrants comprising the units, and 1,602,833 shares of common stock underlying the warrants, collectively the offered securities. The warrants have an initial exercise price of $15 and are exercisable until 5:00 p.m. New York City time on July 1, 2005. The warrants comprising the units do not become exercisable, detachable and freely tradable until after the shares of the common stock comprising the units are registered under the Securities Act and either listed on a national securities exchange or The Nasdaq Stock Market, Inc. The shares of common stock and the warrants comprising the units may not be traded separately until such listing.

We issued and sold 1,610,000 units in the original offering on July 1, 2003. 1,327,989 of these units were sold to JMP Securities LLC, as initial purchaser, and were simultaneously resold by JMP in transactions exempt from the registration requirements of the Securities Act of 1933, as amended, to persons reasonably believed by JMP Securities to be “qualified institutional buyers” (as defined in Rule 144A under the Securities Act) and to a limited number of institutional “accredited investors” (as defined in Rule 501 under the Securities Act). The remaining 282,011 units were sold directly by us to individual accredited investors. Certain investors in the original offering included institutions and persons affiliated with us and JMP.

The selling stockholders from time to time may offer and sell the offered securities, held by them directly or through agents or broker-dealers on terms to be determined at the time of sale. These sales may be made on any exchange or interdealer quotation system on which the offered securities are then traded, in the over-the-counter market, in negotiated transactions or otherwise at prices and at terms then prevailing or at prices related to the then current market prices or at prices otherwise negotiated. To the extent required, the names of any agent or broker-dealer and applicable commissions or discounts and any other required information with respect to any particular offer will be set forth in a prospectus supplement that will accompany this prospectus. A prospectus supplement may also add, update or change information contained in this prospectus.

As soon as practicable after the registration statement of which this prospectus is a part is declared effective, we intend to apply to list the offered securities on the New York Stock Exchange or The Nasdaq Stock Market.

Investing in our securities involves risks. See “Risk Factors” beginning on page 15 for a discussion of these risks.

- We have a limited operating history and may not operate successfully.
- Our historical consolidated financial information is not likely to be indicative of our future performance or financial condition as a separate company.
- We are dependent on our manager with whom we have conflicts of interest.
- Our directors have approved very broad investment guidelines for our manager and do not approve each investment decision made by our manager.
- We depend on key personnel with long standing business relationships, the loss of whom could threaten our ability to operate our business successfully.
- We may be unable to generate sufficient revenue from operations to pay our operating expenses and to pay dividends to our stockholders.
- If ACM ceases to be our manager, the financial institutions providing our credit facilities may not provide future financing to us.
- If we do not qualify as a REIT or fail to remain qualified as a REIT, we will be subject to tax as a regular corporation and could face substantial tax liability.
- There is no public market for the offered securities, and there may be no market for the offered securities after the completion of this offering.
- Our charter generally does not permit ownership in excess of 9.6% of our common or capital stock, and attempts to acquire our capital stock in excess of these limits are ineffective without prior approval from our board of directors.

Neither the Securities and Exchange Commission nor any state securities commission has approved or disapproved of these

securities or passed upon the adequacy or accuracy of this prospectus. Any representation to the contrary is a criminal offense.

The date of this prospectus is _____, 200_

TABLE OF CONTENTS

You should rely only on the information contained in this prospectus. We have not authorized anyone to provide you with different or additional information. This prospectus does not constitute an offer to sell, or a solicitation of an offer to purchase, the securities offered by this prospectus in any jurisdiction to or from any person to whom or from whom it is unlawful to make such offer or solicitation of an offer in such jurisdiction. You should not assume that the information contained in this prospectus is accurate as of any date other than the date on the front cover of this prospectus. Neither the delivery of this prospectus nor any distribution of securities pursuant to this prospectus shall, under any circumstances, create any implication that there has been no change in the information set forth in this prospectus or in our affairs since the date of this prospectus.

TABLE OF CONTENTS

PROSPECTUS SUMMARY

This summary highlights information more fully described elsewhere in this prospectus. This summary is not complete and does not contain all the information you should consider before buying our securities. You should read this entire prospectus carefully before deciding to invest in our securities, including "Risk Factors", "Selected Consolidated Financial Information of Arbor Realty Trust, Inc. and Subsidiaries," "Selected Consolidated Financial Information of the Structured Finance Business of Arbor Commercial Mortgage, LLC and Subsidiaries," "Management's Discussion & Analysis of Financial Condition and Results of Operations of Arbor Realty Trust, Inc. and Subsidiaries," "Management's Discussion & Analysis of Financial Condition and Results of Operations of the Structured Finance Business of Arbor Commercial Mortgage, LLC and Subsidiaries," the historical consolidated financial statements of Arbor Realty Trust, Inc. and subsidiaries, including related notes and the historical consolidated financial statements of the structured finance business of Arbor Commercial Mortgage, LLC and subsidiaries, including related notes, each included elsewhere in this prospectus. Unless otherwise mentioned or unless the context otherwise requires, all references in this prospectus to (a) "we, " "us, " "our, " or similar references mean Arbor Realty Trust, Inc. and Arbor Realty Limited Partnership, our operating partnership, and (b) "Arbor Commercial Mortgage, "ACM", or "our manager" mean Arbor Commercial Mortgage, LLC.

Arbor Realty Trust, Inc.

We are a Maryland corporation that commenced operations in July 2003. We invest in real estate related bridge and mezzanine loans, preferred equity and, in limited cases, discounted mortgage notes and other real estate related assets, which we collectively refer to as structured finance investments. We conduct substantially all of our operations through our operating partnership, Arbor Realty Limited Partnership. We intend to elect to be taxed as a real estate investment trust, or REIT, under the Internal Revenue Code and generally will not be subject to federal taxes on our income to the extent we distribute our income to our stockholders and maintain our qualification as a REIT.

On July 1, 2003, Arbor Commercial Mortgage, LLC, or ACM, contributed the majority of its structured finance portfolio to our operating partnership. These initial assets, consisting of 12 bridge loans, five mezzanine loans, five preferred equity investments and two other real estate related investments, were transferred at book value, which approximates fair value, that, at June 30, 2003, represented $213.1 million in assets financed by $169.2 million borrowed under ACM's credit facilities and supported by $43.9 million in equity. Simultaneously with the ACM's contribution of assets, we issued and sold 1,610,000 of our units in a private offering, or the original offering.

We are externally managed and advised by ACM. Our manager is a national commercial real estate finance company operating through 15 regional offices in the United States, specializing in debt and equity financing for multi-family and commercial real estate. We believe ACM's experience and reputation positions it to originate attractive investment opportunities for us. Our management agreement with ACM was developed to capitalize on synergies with ACM's origination infrastructure, existing business relationships and management expertise.

We believe the financing of multi-family and commercial real estate offers significant growth opportunities as the inflexibility of traditional lenders has created increased demand for customized financing solutions. Since its inception in 1996, ACM's structured finance group has originated over $1.2 billion in structured finance transactions for investment by ACM and certain joint venture partners. ACM has not realized any loss of principal on these investments, and, to date, approximately $1 billion of these investments have been fully realized. ACM has granted us a right of first refusal to pursue all structured finance investment opportunities identified by ACM. ACM will continue to provide and service multi-family and commercial mortgage loans under Fannie Mae, Federal Housing Administration and conduit commercial lending programs, which we believe will offer customer relationship synergies to our business.

We have a strong senior management team with significant industry experience. Mr. Ivan Kaufman, the chief executive officer of ACM, and Mr. Frederick Herbst, the chief financial officer of ACM, also serve as our chief executive officer and chief financial officer, respectively. Mr. Fred Weber, the head of the structured finance group at ACM since 1999, is our executive vice president of structured finance. Mr. Daniel M. Palmier, the head of ACM's asset management group since 1997, is our executive vice president of asset management, and the eight

additional employees who comprised the asset management group of ACM have also joined us. In October 2003, we hired Mr. John C. Kovarik as our chief credit officer. Messrs. Kaufman, Weber, Palmier and Kovarik serve as members of our credit committee, which has the authority to decide whether we will invest in an individual loan or security originated by ACM.

We believe the asset management group's involvement in our credit underwriting process helps to mitigate investment risk after the closing of a transaction. The asset management group is integrated into the underwriting and structuring process for all transactions in order to enhance the credit quality of our originations before a transaction closes. After the closing of transactions, the asset management group's experience in managing complex restructurings, refinancings and asset dispositions is used to improve the credit quality and yield on managed investments.

In connection with ACM's contribution of the initial assets, ACM arranged for us to have substantially similar credit facilities as those used by ACM to finance these assets. In exchange for ACM's asset contribution, we issued to ACM approximately 3.1 million operating partnership units, each of which ACM may redeem for one share of our common stock or an equivalent amount in cash, at our election, and approximately 629,000 warrants, each of which entitles ACM to purchase one additional operating partnership unit. The operating partnership units and warrants for additional operating partnership units issued to ACM were valued at approximately $43.9 million at July 1, 2003, based on the price offered to investors in our units in the original offering, adjusted for the initial purchaser's discount. Each of the approximately 3.1 million operating partnership units received by ACM is paired with one share of our special voting preferred stock that entitles the holder to one vote on all matters submitted to a vote of our stockholders. As operating partnership units are redeemed for shares of our common stock or cash, an equivalent number of shares of special voting preferred stock will be redeemed and cancelled. See "Description of Stock — Special Voting Preferred Stock." As a result of ACM's asset contribution and the related formation transactions, ACM owns approximately a 28% limited partnership interest in our operating partnership and the remaining 72% interest in our operating partnership is owned by us. In addition, ACM has approximately 28% of the voting power of our capital stock (without giving effect to the exercise of ACM's warrants for additional operating partnership units).

Our Business Strategy

We believe there is strong growth potential in customized financing of multi-family and commercial real estate. In the past decade, the commercial mortgage industry has experienced significant change, due in part to increasingly standardized underwriting requirements, more demanding borrowers and lenders and the growth of a market for securitized commercial real estate pools.

Many existing lending firms lack the capital or financial flexibility to compete effectively in today's rapidly changing market. As a result, the commercial mortgage industry is moving toward greater consolidation. Banks and life insurance companies, which have traditionally been the primary source for commercial real estate financing, are increasingly constraining borrowers by their relatively inflexible underwriting standards, including lower loan to value ratios, thereby creating significant demand for bridge, mezzanine and other forms of innovative financing.

We capitalize on this demand by investing in a diversified portfolio of structured finance assets in the multi-family and commercial real estate market. Our principal business objectives are to invest in bridge and mezzanine loans, preferred equity and other real estate related assets and actively manage this portfolio in order to generate cash available for distribution, facilitate capital appreciation and maximize total return to our stockholders. We believe we can achieve these objectives through the following business and growth strategies:

Provide Customized Financing. We provide financing customized to the needs of our borrowers. We target borrowers with reputations for enhancing value, but whose options may be limited by conventional bank financing and who may benefit from the sophisticated structured finance products we offer. Historically, ACM has attempted to provide customized loan structures and other financing alternatives to fit the characteristics and purpose of each individual borrower and its financing requirements, and we employ a similar strategy.

Use ACM's Relationships with Existing Borrowers. We capitalize on ACM's reputation in the commercial real estate finance industry. ACM has relationships with over 125 distinct borrowers nationwide. Since ACM's originators offer ACM's senior mortgage loans as well as our structured finance products, we are able to benefit from ACM's existing customer base and use its senior lending business as a potential way to refinance our structured finance assets.

Offer Broader Products and Expand Customer Base. We have the ability to offer a larger number of financing alternatives than ACM has been able to offer to its customers in the past. Our potential borrowers are able to choose from products offering longer maturities and larger principal amounts than ACM could previously offer.

Leverage Our Experience and the Experience of ACM. Our executive officers and employees, and those of ACM, have extensive experience originating and managing structured commercial real estate investments. Our senior management team has on average over 20 years experience in the financial services industry. Additionally, our executive officers have prior experience in managing and operating a public company, the predecessor company to ACM.

Manage and Maintain Credit Quality. A critical component of our success in the real estate finance sector is our ability to manage the real estate risk that is underwritten by our manager and us. We actively manage and maintain the credit quality of our portfolio by using the expertise of our asset management group, which has a proven track record of structuring and repositioning structured finance investments to improve the credit quality and yield on managed investments.

Focus on a Niche Market in Smaller Loan Balances. We focus on loans with principal amounts under $20 million, which many larger lending firms do not target. We can afford to invest the time and effort required to close loans with smaller principal amounts because of our relatively efficient cost structure.

Execute Transactions Rapidly. We act quickly and decisively on proposals, provide commitments and close transactions within a few weeks and sometimes days, if required. We believe that rapid execution attracts opportunities from both borrowers and other lenders that would not otherwise be available. We believe our ability to structure flexible terms and close loans in a timely manner gives us a competitive advantage over lending firms that also serve the market for loans with principal amounts under $20 million.

Our Investment Strategy

We actively pursue lending and investment opportunities with property owners and developers who need interim financing until permanent financing can be obtained. Our structured finance investments generally have maturities of two to five years, depending on the type, have extension options when appropriate, and generally require a balloon payment of principal at maturity. Borrowers in the market for these types of loans include owners or developers who seek either to acquire or refurbish real estate or pay down debt and reposition a property for permanent financing.

Our investment program emphasizes the following general categories of real estate related activities:

Bridge Financing. We offer bridge financing products to borrowers who are typically seeking short term capital to be used in an acquisition of property. The borrower has usually identified an undervalued asset that has been under-managed or is located in a recovering market. From the borrower's perspective, shorter term bridge financing is advantageous because it allows time to improve the property value through repositioning the property without encumbering it with restrictive long term debt. The bridge loans we make are secured by first lien mortgages on the property. Borrowers usually use the proceeds of a conventional mortgage loan to repay a bridge loan.

Mezzanine Financing. We offer mezzanine loans, which are loans subordinate to a conventional first mortgage loan and senior to the borrower's equity in a transaction. We believe this product allows our clients to fund their projects in a more efficient and strategic manner than financing methods offered by conventional lenders. Our mezzanine financing may take the form of pledges of ownership interests in entities that directly or indirectly

control the real property or subordinated loans secured by second mortgages. We may also require additional collateral such as personal guarantees, letters of credit and/or additional collateral unrelated to the property.

Preferred Equity Investments. We provide financing by making preferred equity investments in entities that directly or indirectly own real property. In cases where the terms of a first mortgage prohibit additional liens on the ownership entity, investments structured as preferred equity interests in the entity owning the property serve as viable financing substitutes. With preferred equity investments, we typically become a special limited partner or member in the ownership entity.

Other Investments. We may engage in other investment activities, including the purchase of discounted first lien mortgage notes from other lenders and opportunistic investments including the acquisition of properties. Typically, these transactions, which may be conducted through taxable subsidiaries, are analyzed with the expectation that, upon property repositioning or renovation, they will be sold to achieve a significant return on invested capital.

We borrow against or leverage our investments to the extent consistent with our investment guidelines in order to increase the size of our portfolio and potential returns to our stockholders. We have a $250.0 million warehouse credit agreement with a financial institution, with a term of three years. We also have a $100.0 million master repurchase agreement with another financial institution, with a one-year term, renewable annually and a $50.0 million master repurchase agreement with a third financial institution with a term of three years. We may also sell participating interests in our investments.

Our Manager

ACM is a national commercial real estate finance company, which was founded in 1993 as a subsidiary of Arbor National Holdings, Inc., or ANH, an originator and servicer of residential mortgage loans. Our chief executive officer, Mr. Ivan Kaufman, also ACM's chief executive officer and controlling equity owner, was the co-founder, chairman and majority shareholder of ANH. Under Mr. Kaufman's direction, ANH grew to 25 branches in 11 states and funded more than $4 billion in loans in its last full year of operations. ANH became a public company in 1992 and was sold to BankAmerica in 1995. As chairman and chief executive officer of ANH, Mr. Kaufman developed significant experience operating and managing a publicly traded company.

In connection with the sale of ANH, Mr. Kaufman purchased its commercial mortgage lending operations and the rights to the "Arbor" name and retained a significant portion of ANH's senior management team. This senior management team has guided ACM's growth from a company originally capitalized with approximately $8 million to its current equity value of approximately $69 million as of September 30, 2003. ACM is now a full service provider of financial services to owners and developers of multi-family and commercial real estate properties. ACM, which has been profitable every year since 1995, originated over $600 million in new loans in 2002 and is currently servicing a portfolio with a principal balance of $2.7 billion.

ACM's executive officers and employees have extensive experience in originating and managing structured commercial real estate investments. The senior management team has an average of over 20 years experience in the financial services industry. ACM currently has 130 employees spread among its corporate headquarters in Uniondale, New York, 14 other sales offices located throughout the United States and the servicing administration office in Buffalo, NY.

We and our operating partnership have entered into a management agreement with ACM pursuant to which ACM has agreed to provide us with structured finance investment opportunities and loan servicing as well as other services necessary to operate our business.

We pay our manager an annual base management fee, payable monthly in cash as a percentage of ARLP's equity and equal to 0.75% per annum of the equity up to $400 million, 0.625% per annum of the equity from $400 million to $800 million and 0.5% per annum of the equity in excess of $800 million. For purposes of calculating the base management fee, equity equals the month end value computed in accordance with generally accepted

accounting principles of (1) total partners' equity in ARLP, plus or minus (2) any unrealized gains, losses or other items that do not affect realized net income.

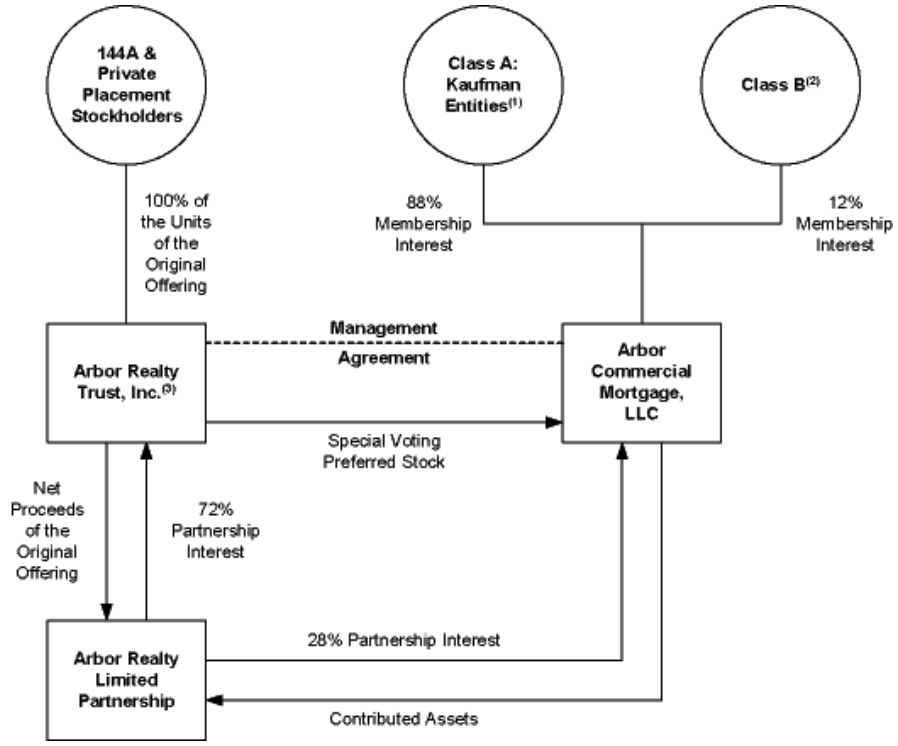
We also pay ACM incentive compensation each fiscal quarter, calculated as (1) 25% of the amount by which (a) ARLP's funds from operations per operating partnership unit, adjusted for certain gains and losses, exceeds (b) the product of (x) 9.5% per annum or the 10 year Treasury Rate plus 3.5%, whichever is greater, and (y) the weighted average of book value of the net assets contributed by ACM to ARLP per operating partnership unit, the offering price per share of our common equity in the original offering and subsequent offerings and the issue price per operating partnership unit for subsequent contributions to ARLP, multiplied by (2) the weighted average of ARLP's outstanding operating partnership units. At least 25% of this incentive compensation is paid to ACM in shares of our common stock, subject to ownership limitations in our charter. We have also agreed to share with ACM a portion of the origination fees that we receive on loans we originate with ACM. See "Our Manager and the Management Agreement."

We pay or reimburse ACM for certain third party expenses, compensation of our independent directors and certain other expenses. Third party expenses include certain legal, accounting, due diligence tasks and other services that outside professionals perform for us.

The management agreement has an initial term of two years and is renewable automatically for an additional one year period every year thereafter, unless terminated with six months' prior written notice. If we terminate or elect not to renew the management agreement in order to manage our portfolio internally, we are required to pay a termination fee equal to the base management fee and incentive compensation for the 12-month period preceding the termination. If, without cause, we terminate or elect not to renew the management agreement for any other reason, including a change of control of us, we are required to pay a termination fee equal to two times the base management fee and incentive compensation paid for the 12-month period preceding the termination.

Our Structure

The following chart shows our structure following completion of the original offering and the transactions in connection with our formation:



(1) Mr. Kaufman, the Ivan and Lisa Kaufman Family Trust, the Ivan Kaufman Grantor Retained Annuity Trust and Arbor Management, LLC, the managing member of ACM and an entity wholly owned by Mr. Kaufman and his spouse, which we collectively refer to in this prospectus as the Kaufman entities, collectively hold this 88% membership interest in ACM. See "Security Ownership of Beneficial Owners and Management."

(2) Messrs. Herbst, Weber, Palmier and Messrs. Joseph Martello and Walter Horn, two of our directors, collectively hold 5% of the membership interests in ACM. In addition, Mr. Martello also serves as (a) trustee of the Ivan and Lisa Kaufman Family Trust, a trust created by Mr. Kaufman for the benefit of Mr. Kaufman's family, and (b) co-trustee, along with Mr. Kaufman, of the Ivan Kaufman Grantor Retained Annuity Trust.

(3) We hold our partnership interests in our operating partnership through two wholly owned subsidiaries, Arbor Realty GPOP, Inc., the general partner, holding a 0.1% general partner interest, and Arbor Realty LPOP, Inc., a limited partner, holding a 71.9% limited partner interest.

Risk Factors

An investment in our securities involves a number of risks. You should consider carefully the risks discussed below and under "Risk Factors" beginning on page 15 before purchasing our securities.

- We have a limited operating history and may not operate successfully.

- Our historical consolidated financial information is not likely to be indicative of our future performance or financial condition as a separate company.
- We are dependent on our manager with whom we have conflicts of interest.
- Our directors have approved very broad investment guidelines for our manager and do not approve each investment decision made by our manager.
- Our manager has broad discretion to invest funds and may acquire structured finance assets where the investment returns are substantially below expectations or that result in net operating losses.
- We depend on key personnel with long standing business relationships, the loss of whom could threaten our ability to operate our business successfully.
- We may be unable to invest excess equity capital on acceptable terms or at all, which would adversely affect our operating results.
- We invest in multi-family and commercial real estate loans, which involve a greater risk of loss than single family loans.
- Volatility of values of multi-family and commercial properties may adversely affect our loans and investments.
- We may be unable to generate sufficient revenue from operations to pay our operating expenses and to pay dividends to our stockholders.
- If ACM ceases to be our manager pursuant to the management agreement, the financial institutions providing our credit facilities may not provide future financing to us.
- If we do not qualify as a REIT or fail to remain qualified as a REIT, we will be subject to tax as a regular corporation and could face substantial tax liability.
- There is no public market for the offered securities, and there may be no market for the offered securities after the completion of this offering.
- Our charter generally does not permit ownership in excess of 9.6% of our common or capital stock, and attempts to acquire our capital stock in excess of these limits are ineffective without prior approval from our board of directors.

Restrictions on Ownership of Stock

In order for us to maintain our qualification as a REIT under the Code, not more than 50% (by value) of our outstanding shares of capital stock may be owned, directly or indirectly, by five or fewer individuals (as defined in the Internal Revenue Code to include certain entities). For the purpose of preserving our REIT qualification, our charter generally prohibits direct or indirect ownership of more than 9.6% of the outstanding shares of capital stock. Our board of directors may, however, in its discretion, exempt a person from this ownership limitation, and, as a condition to such exemption, may require a satisfactory ruling from the Internal Revenue Service, or IRS, an opinion of counsel (as to our continued REIT status) and/or certain representations and undertakings from such person.

Distribution Policy

To maintain our qualification as a REIT, we intend to make regular quarterly distributions to our stockholders of at least 90% of our taxable income, which does not necessarily equal net income as calculated in accordance with generally accepted accounting principles. Distributions are authorized by our board of directors

and declared by us based upon a variety of factors deemed relevant by our directors, and our distribution policy may change in the future. Our ability to make distributions to our stockholders depends, in part, upon our receipt of distributions from our operating partnership, Arbor Realty Limited Partnership, which may depend, in part, upon the performance of our investment portfolio, and, in turn, upon ACM's management of our business. Distributions to our stockholders are generally taxable to our stockholders as ordinary income, although a portion of these distributions may be designated by us as long term capital gain or may constitute a return of capital.

Our charter allows us to issue preferred stock with a preference on distributions. We currently have no intention to issue any such preferred stock with a preference on distributions but if we do, the dividend preference on the preferred stock could limit our ability to make a dividend distribution to our common stockholders.

On November 5, 2003, we declared a dividend of $.25 per share of common stock, payable with respect to the quarter ending September 30, 2003, to our common stockholders of record at the close of business on November 5, 2003. We plan to distribute this dividend on November 18, 2003.

Preferred Stock

Pursuant to a pairing agreement that we entered into with our operating partnership and our manager, each operating partnership unit issued to ACM and its affiliates in connection with the contribution of the initial assets (including operating partnership units issuable upon the exercise of ACM's warrants) is paired with one share of our special voting preferred stock. No operating partnership unit that is paired with a share of special voting preferred stock may be transferred unless accompanied by such special voting share. A holder of special voting preferred stock is not entitled to any regular or special dividend payments or other distributions, other than a $.01 per share liquidation preference.

Each share of special voting preferred stock entitles the holder to one vote on all matters submitted to a vote of our stockholders. Therefore, through its ownership of the "paired" special voting preferred stock, ACM is currently entitled to a number of votes representing approximately 28% of the voting power of all shares entitled to vote on matters submitted to a vote of our stockholders (without giving effect to the exercise of ACM's warrants). The holders of special voting preferred stock have no separate class voting rights except as provided by our charter.

Upon any redemption of an operating partnership unit that is paired with a share of special voting preferred stock, the share of special voting preferred stock will be redeemed and cancelled by us.

Tax Status

We intend to elect to be treated as a REIT for federal income tax purposes. To qualify as a REIT, we must meet various tax law requirements, including, among others, requirements relating to the nature of our assets, the sources of our income, the timing and amount of distributions that we make and the composition of our stockholders. As a REIT, we generally are not subject to federal income tax on income that we distribute to our stockholders. If we fail to qualify as a REIT in any taxable year, we will be subject to federal income tax at regular corporate rates, and we may be precluded from qualifying as a REIT for the subsequent four taxable years following the year during which we lost our qualification. Further, even to the extent that we qualify as a REIT, we will be subject to tax at normal corporate rates on net income or capital gains not distributed to our stockholders, and we may be subject to other taxes, including payroll taxes, and state and local income, franchise, property, sales and other taxes. Moreover, we may have subsidiary entities that are subject to federal income taxation and to various other taxes. Any dividends received from us will generally, with limited exceptions, not be eligible for taxation at the preferred capital gain rates that currently apply, pursuant to recently enacted legislation, to dividends received by individuals from taxable corporations. See "Federal Income Tax Considerations."

Conflicts of Interest

We, our executive officers and ACM face conflicts of interest because of our relationships with each other. Mr. Ivan Kaufman is our chief executive officer and the chief executive officer of ACM. The Kaufman entities own approximately 88% of the beneficial equity interest of ACM. Mr. Frederick C. Herbst is our chief financial officer

and the chief financial officer of ACM. Mr. Herbst, two of our executive vice presidents, Messrs. Dan Palmier and Fred Weber, and two of our directors, Mr. Joseph Martello and Mr. Walter Horn, collectively, have a minority ownership interest in ACM. In addition, Mr. Martello serves as trustee of one of the Kaufman entities that owns a majority ownership interest in ACM and co-trustee of another Kaufman entity that owns an equity interest in ACM.

ACM will continue, among other activities, to originate, acquire and service multi-family and commercial mortgage loans that meet the underwriting and approval guidelines of Fannie Mae, the Federal Housing Administration and conduit commercial lending programs secured by first liens on real property. Accordingly, Messrs. Kaufman and Herbst will devote substantial amounts of their time to operating portions of ACM's business that do not involve managing us. Further conflicts of interest may arise because ACM may also provide permanent mortgage financing to real estate concerns to which we have made temporary loans, or because ACM may have equity interests in real estate concerns that borrow money from us. In addition, Messrs. Palmier and Weber will continue to provide services to ACM as members of ACM's executive committee, and may receive fees for originating loans on behalf of ACM.

ACM holds a 28% limited partnership interest in our operating partnership as a result of the contribution of the initial assets. ACM also owns approximately 3.1 million shares of our special voting preferred stock that entitle it to 28% of the voting power of our stock (without giving effect to the exercise of ACM's warrants).

We were formed by ACM and the terms of our management agreement, and the contribution of the initial assets were not negotiated at arm's length. To address some of these conflicts of interest, our charter requires that a majority of our board of directors be independent directors and that a majority of our independent directors make any determinations on our behalf with respect to the relationships or transactions that present a conflict of interest for our directors or officers. Our board of directors has adopted a specific policy that decisions concerning our management agreement, including termination, renewal and enforcement of the management agreement, or concerning any acquisition of assets from ACM or its affiliates or other participation in any transactions with ACM or its affiliates outside of the management agreement must be reviewed and approved by a majority of our independent directors. Finally, our independent directors will periodically review the general investment standards established for the manager under the management agreement.

Original Offering

On July 1, 2003, we issued and sold 1,610,000 of our units, each consisting of five shares of our common stock, $.01 par value per share, and one warrant to purchase an additional share of common stock. 1,327,989 of these units were sold to JMP, as initial purchaser, and were simultaneously resold by JMP in transactions exempt from the registration requirements of the Securities Act of 1933, as amended, to persons reasonably believed by JMP Securities to be "qualified institutional buyers" (as defined in Rule 144A under the Securities Act) and to a limited number of institutional "accredited investors" (as defined in Rule 501 under the Securities Act). The remaining 282,011 units were sold directly by us to individual accredited investors. Certain investors in the original offering included institutions and individuals affiliated with us and JMP.

Registration Rights

In connection with the original offering we entered into a registration rights agreement with JMP. Pursuant to that agreement, we have filed a shelf registration statement of which this prospectus is a part, covering the resale of the offered securities. The shelf registration statement includes the offered securities listed under "— The Offering."

At the time of the original offering we also entered into a registration rights agreement with ACM whereby we granted ACM certain demand and other registration rights with respect to shares of common stock that may be issued to ACM upon redemption of the 3.1 million operating partnership units issued to ACM and issuable to ACM upon exercise of the 629,000 warrants for additional operating partnership units.

Lock-Up Agreements

In connection with the original offering, ACM, members of our senior management and board of directors and certain members of the senior management of ACM agreed not to offer, pledge, sell contract to sell, sell any option or contract to purchase or otherwise transfer or dispose of, directly or indirectly, any shares of our common stock, or any securities convertible into or exercisable for any of our common stock or any right to acquire our common stock, until the earlier of:

- 180 days from the effective date of the shelf registration statement; and
- two years from the consummation of the original offering, subject to certain exceptions.

We also agreed not to offer to sell, contract to sell, or otherwise dispose of, loan, pledge or grant any rights with respect to any shares of our common stock, any options or warrants to purchase any shares of our common stock or any securities convertible into or exercisable for any of our common stock, including our units, for a period of 180 days following the completion of the original offering, subject to certain exceptions.

JMP, at any time, and without notice, may release all or any portion of the common stock subject to the foregoing lock-up agreements.

The Offering

Securities Offered	The selling stockholders may, from time to time, sell the offered securities which include: 1,602,833 units sold in the original offering; 8,014,165 shares of common stock comprising the units; 1,602,833 warrants comprising the units; and 1,602,833 shares of common stock underlying the warrants. The warrants have an initial exercise price of $15 and are exercisable until 5:00 p.m. New York City time on July 1, 2005. The warrants comprising the units do not become exercisable, detachable and freely tradable until after the shares of the common stock comprising the units are registered under the Securities Act and either listed on a national securities exchange or The Nasdaq Stock Market, Inc. The shares of common stock and the warrants comprising the units may not be traded separately until such listing.
Offering Price	The selling stockholders are offering, from time to time, the securities being offered by this prospectus at the then current market price.
Use of Proceeds	The selling stockholders will receive all of the proceeds from the sale of the securities. We will not receive any proceeds from the sale of the securities.
Listing	We have agreed to use our best efforts to list or include the offered securities on The Nasdaq Stock Market, including The Nasdaq SmallCap Market, or the New York Stock Exchange, in our discretion, as soon as practicable after we are able to satisfy the applicable listing requirements for the offered securities, which will not occur for an indefinite period of time, if at all, after the registration statement of which this prospectus is a part is declared effective. If and when we apply for listing of the offered securities under the applicable listing requirements, we cannot guarantee that we will have the minimum number of holders required in order to list or include the offered securities on either The Nasdaq Stock Market, including The Nasdaq SmallCap Market, or the New York Stock Exchange.

Summary Selected Unaudited Consolidated Financial Information of Arbor Realty Trust, Inc. and Subsidiaries

The following tables present selected historical consolidated financial information for the three months ended September 30, 2003. The selected historical consolidated financial information presented below under the captions "Consolidated Statement of Operations Data" and "Consolidated Balance Sheet Data" have been derived from our unaudited, interim consolidated financial statements and include all adjustments, consisting only of normal recurring accruals, which management considers necessary for a fair presentation of the historical consolidated financial statements for such period. The information presented under the caption "Statement of Operations Data" for the three months ended September 30, 2003 is not necessarily indicative of any other interim period or of the year ended December 31, 2003. In addition, since the information presented below is only a summary and does not provide all of the information contained in our historical consolidated financial statements, including the related notes, you should read it in conjunction with "Management's Discussion and Analysis of Financial Condition and Results of Operations of Arbor Realty Trust, Inc. and Subsidiaries" and our historical consolidated financial statements, including the related notes, included elsewhere in this prospectus.

	Three Months Ended September 30, 2003 (unaudited)
Consolidated Statement of Operations Data:	
Interest Income	$ 4,664,115
Other income	6,375
Total revenue	4,670,490
Total expenses	3,183,411
Net income	1,074,587
Earnings per share, basic and diluted (1)	.13
Dividends declared per common share (2)	.25

	At September 30, 2003 (unaudited)
Consolidated Balance Sheet Data:	
Loans and investments, net	$ 214,237,458
Related party loans, net	26,000,000
Total assets	255,389,573
Notes payable and repurchase agreements	91,913,811
Total liabilities	97,831,411
Minority interest	44,309,289
Total stockholders' equity	$ 113,248,873

	Three Months Ended September 30, 2003 (unaudited)
Other Data:	
Total originations	$ 39,014,922

(1) The warrants underlying the units issued in the original offering at $75.00 per unit have an exercise price of $15.00 per share and expire on July 1, 2005. This exercise price is equal to the price per share of common stock in the original offering and approximates the market value of our common stock at September 30, 2003. Therefore, the assumed exercise of the warrants were not considered to be dilutive for purposes of calculating diluted earnings per share.

(2) On November 5, 2003, we declared a dividend of $.25 per share of common stock, payable with respect to the quarter ending September 30, 2003, to common stockholders of record at the close of business on November 5, 2003.

Summary Selected Consolidated Financial Information
of the Structured Finance Business of Arbor Commercial Mortgage, LLC and Subsidiaries

On July 1, 2003, ACM contributed a portfolio of structured finance investments and related liabilities to our operating partnership. In addition, certain employees of ACM became our employees. These assets, liabilities and employees represented a substantial portion of ACM's structured finance business.

The tables on the following page present selected historical consolidated financial information of the structured finance business of ACM at the dates and for the periods indicated. The structured finance business did not operate as a separate legal entity or business division or segment of ACM, but as an integrated part of ACM's consolidated business. Accordingly, the statements of revenue and direct operating expenses do not include charges from ACM for corporate general and administrative expense because ACM considered such items to be corporate expenses and did not allocate them to individual business units. These expenses included costs for ACM's executive management, corporate facilities and overhead costs, corporate accounting and treasury functions, corporate legal matters and other similar costs. The selected consolidated financial information presented under the caption "Consolidated Statement of Revenue and Direct Operating Expenses Data" for the years ended December 31, 2002, 2001 and 2000 and under the caption "Consolidated Statement of Assets and Liabilities Data" as of December 31, 2002 and 2001 have been derived from the audited consolidated financial statements of the structured finance business of ACM included elsewhere in this prospectus. The selected consolidated financial information presented under the caption "Consolidated Statement of Revenue and Direct Operating Expenses Data" for the years ended December 31, 1999 and 1998 and the caption "Consolidated Statement of Assets and Liabilities Data" as of December 31, 2000, 1999 and 1998 have been derived from the unaudited consolidated financial statements of the structured finance business of ACM.

The selected consolidated financial information presented under the caption "Consolidated Statement of Revenue and Direct Operating Expenses Data" for the six months ended June 30, 2003 and 2002 and the nine months ended September 30, 2002 and under the caption "Consolidated Statement of Assets and Liabilities Data" at June 30, 2003 have been derived from the unaudited interim consolidated financial statements of ACM's structured finance business and include all adjustments, consisting only of normal recurring accruals, which management considers necessary for a fair presentation of the historical consolidated financial information for such periods. The selected historical consolidated financial information presented under the caption "Consolidated Statement of Revenue and Direct Operating Expenses Data" for the six month period ended June 30, 2003 is not necessarily indicative of the results of any other interim period or the year ended December 31, 2003. The selected historical consolidated financial information presented under the caption "Consolidated Statement of Revenue and Direct Operating Expenses Data" for the six month period ended June 30, 2002 and the nine month period ended September 30, 2002 are not necessarily indicative of the results of any other interim period or the year ended December 31, 2002.

The consolidated financial statements of ACM's structured finance business included in this prospectus represent the consolidated financial position and results of operations of ACM's structured finance business during certain periods and at certain dates when ACM previously held our initial assets, as well as several other structured finance investments that we did not acquire in connection with our formation transactions. See "Arbor Realty Trust, Inc." Accordingly, the historical financial results of ACM's structured finance business are not indicative of our future performance. In addition, since the information presented is only a summary and does not provide all of the information contained in the consolidated financial statements of ACM's structured finance business, including related notes, you should read it in conjunction with "Management's Discussion and Analysis of Financial Condition and Results of Operations of the Structured Finance Business of Arbor Commercial Mortgage, LLC and Subsidiaries" and the consolidated financial statements of ACM's structured finance business, including related notes, contained elsewhere in this prospectus.

Consolidated Statement of Revenue and Direct Operating Expenses Data:

	Six Months Ended June 30,		Nine Months Ended September 30,	Year Ended December 31,				
	2003	2002	2002	2002	2001(1)	2000(1)	1999(1)	1998(1)
	(unaudited)		(unaudited)					
Interest Income	$ 7,688,465	$ 7,482,750	$ 10,798,414	$14,532,504	$14,667,916	$10,707,551	$ 6,964,873	$ 6,807,617
Gain on sale of loans and real estate	1,024,268	7,006,432	7,006,432	7,470,999	3,226,648	1,880,825	1,818,299	1,898,558
Income from equity affiliates	—	601,100	632,350	632,350	1,403,014	5,028,835	3,592,398	567,006
Income from real estate held for sale, net of operating expenses	—	—	—	—	—	—	925,999	1,608,172
Other income	1,552,414	553,625	572,161	1,090,106	1,668,215	652,970	2,838,639	7,064,294
Total revenue	10,265,147	15,643,907	19,009,357	23,725,959	20,965,793	18,270,181	16,140,208	17,945,647
Total direct operating expenses	5,737,688	8,344,302	10,775,555	13,639,755	10,997,800	9,227,274	7,145,469	6,589,274
Revenue in excess of direct operating expenses	4,527,459	7,299,605	8,233,802	10,086,204	9,967,993	9,042,907	8,994,739	11,356,373

Consolidated Statement of Assets and Liabilities Data:

	At June 30, 2003	At December 31,				
	(unaudited)	2002	2001	2000	1999	1998
Loans and investments, net	$204,561,578	$172,142,511	$160,183,066	$ 85,547,323	$50,156,022	$75,604,351
Related party loans, net	23,277,041	15,952,078	15,880,207	—	—	—
Investment in equity affiliates	3,654,573	2,586,026	2,957,072	20,506,417	23,459,586	20,092,793
Total assets	241,667,960	200,563,236	183,713,747	119,110,446	84,751,032	96,537,674
Notes payable and repurchase agreements	171,045,404	141,836,477	132,409,735	70,473,501	47,154,530	58,678,062
Total liabilities	172,686,366	144,280,806	134,086,301	72,266,700	48,025,934	59,193,306
Net assets	68,981,594	56,282,430	49,627,446	46,843,746	36,725,098	37,344,368

Other Data:

	Six Months Ended June 30,		Nine Months Ended	Year Ended December 31,				
	2003	2002	September 30, 2002	2002	2001	2000	1999	1998
Total originations	$117,965,000	$30,660,000	$ 49,510,000	$130,043,000	$86,700,000	$108,378,000(2)	$120,378,900(2)	$230,718,353(2)

(1) In June 1998, ACM entered into a joint venture with SFG I, an affiliate of Nomura Asset Capital Corp., for the purpose of acquiring up to $250 million of structured finance investments. ACM and SFG I each made 50% of the capital contributions to the joint venture and shared profits equally. Nomura Asset Capital Corp. provided financing to the joint venture in the form of a repurchase agreement. On July 31, 2001, ACM purchased SFG I's interest in this venture. This buyout was accounted for by the purchase accounting method. Prior to the purchase, net income from this venture was recorded in income from equity affiliates. The activities of the former joint venture have been included in the statements of revenue and direct operating expenses from the date of acquisition, August 2001. See the consolidated financial statements of ACM's structured finance business and the related notes to the consolidated financial statements included elsewhere in this prospectus for further information.

(2) Total originations for 1998, 1999 and 2000 include originations from ACM's joint venture with SFG I discussed in footnote 1.

Arbor Realty Trust, Inc. was incorporated in the State of Maryland in June 2003. Our principal executive offices are located at 333 Earle Ovington Boulevard, Suite 900, Uniondale, New York 11553. Our telephone number is (516) 832-8002.

RISK FACTORS

An investment in our securities involves a number of risks. Before making an investment decision, you should carefully consider all of the risks described below and the other information contained in this prospectus. If any of the risks discussed in this prospectus actually occur, our business, financial condition and results of operations could be materially adversely affected. If this were to occur, the value of our securities could decline and you may lose all or part of your investment.

Risks Related to Our Business

We have a limited operating history and may not operate successfully.

We were organized in June 2003 and have a limited operating history. The results of our operations depend on many factors, including the performance of the initial assets, the availability of opportunities for the acquisition of additional assets, the level and volatility of interest rates, readily accessible short and long term financing, conditions in the financial markets and economic conditions, and we may not operate successfully. We face substantial competition in acquiring suitable investments, which could adversely impact our yields.

Our historical consolidated financial information is not likely to be indicative of our future performance or financial condition as a separate company.

The historical consolidated financial information included in this prospectus for the three years ending December 31, 2002 and at December 31, 2002 and 2001, for the six months ending June 30, 2003 and at June 30, 2003 and 2002 may not reflect what our results of operations, financial condition and cash flows would have been had we been a separate, stand-alone entity during the periods presented. We prepared our historical consolidated financial statements from ACM's historical accounting records. The revenues, expenses, assets, liabilities and cash flows during each respective period that pertained to ACM's structured finance business were allocated to us. All of these allocations are based on assumptions that management believes are reasonable under the circumstances. However, these allocations may not be indicative of the revenues, expenses, assets, liabilities and cash flows that would have existed or resulted if we had operated as a separate entity.

We may be unable to invest excess equity capital on acceptable terms or at all, which would adversely affect our operating results.

We may not be able to identify investments that meet our investment criteria and we may not be successful in closing the investments that we identify. Unless and until we identify structured finance investments consistent with our investment criteria, any excess equity capital may be used to repay borrowings under our warehouse credit facility and repurchase agreements, which would not produce a return on capital. In addition, the investments that we acquire with our equity capital may not produce a return on capital. There can be no assurance that we will be able to identify attractive opportunities to invest our equity capital which would adversely affect our results of operations.

We may change our investment strategy without stockholder consent, which may result in riskier investments than our current investments.

We may change our investment strategy and guidelines at any time without the consent of our stockholders, which could result in our making investments that are different from, and possibly riskier than, the investments described in this prospectus. A change in our investment strategy or guidelines may increase our exposure to interest rate and real estate market fluctuations.

We depend on key personnel with long standing business relationships, the loss of whom could threaten our ability to operate our business successfully.

Our future success depends, to a significant extent, upon the continued services of our manager and our employees. In particular, the mortgage lending experience of Mr. Ivan Kaufman and Mr. Fred Weber and the extent

and nature of the relationships they have developed with developers of multi-family and commercial properties and other financial institutions are critical to the success of our business. We cannot assure you of their continued employment with ACM or us. The loss of services of one or more members of our manager's officers or our officers could harm our business and our prospects.

If we cannot obtain additional financing substantially similar to the credit facilities we currently have, our growth will be limited.

We are generally required to distribute to our stockholders at least 90% of our taxable income each year to continue to qualify as a REIT, and we must distribute all of our taxable income in order to avert any corporate income taxes on retained income. As a result, our retained earnings available to fund origination of new loans are nominal, and we rely upon the availability of additional debt or equity capital to fund these activities. Our long term ability to grow through investment in structured finance assets will be limited if we cannot obtain additional financing substantially similar to the credit facilities we currently have, including interest rates and advance rates. Market conditions may make it difficult to obtain financing on favorable terms or at all.

If ACM ceases to be our manager pursuant to the management agreement, the financial institutions providing our credit facilities may not provide future financing to us.

ACM must be our external manager pursuant to the management agreement in order to receive advances under each of our existing credit facilities. Additionally, if ACM ceases to be our manager, each of the financial institutions under our current credit facilities has the right to terminate their facility and their obligation to advance funds to us in order to finance our future investments. If ACM ceases to be our manger for any reason and we are not able to obtain financing under our existing credit facilities, our growth may be limited.

The repurchase agreements and credit facilities that we use to finance our investments may require us to provide additional collateral and may leave us without funding should our funding sources file for bankruptcy.

Credit facilities, including repurchase agreements, involve the risk that the market value of the loans pledged or sold by us to the funding source may decline in value, in which case the lending institution may require us to provide additional collateral to pay down a portion of the funds advanced. In addition, in the event that the funding source files for bankruptcy or becomes insolvent, our loans may become subject to the bankruptcy or insolvency proceedings, thus depriving us, at least temporarily, of the benefit of these assets. Such an event could materially adversely affect our results of operations.

Mezzanine loans involve greater risks of loss than senior loans secured by income producing properties.

We invest in mezzanine loans. These types of investments are considered to involve a higher degree of risk than long term senior mortgage lending secured by income producing real property due to a variety of factors, including the investment becoming unsecured as a result of foreclosure by the senior lender. As a result, we may not recover some or all of our investment. In addition, mezzanine loans may have higher loan to value ratios than conventional mortgage loans, resulting in less equity in the property and increasing the risk of loss of principal.

Preferred equity investments involve a greater risk of loss than traditional debt financing.

We invest in preferred equity investments, which involve a higher degree of risk than traditional debt financing due to a variety of factors, including that such investments are subordinate to other loans and are not secured by property underlying the investment. Furthermore, should the issuer default on our investment, we would only be able to proceed against the partnership in which we have an interest, and not the property underlying our investment. As a result, we may not recover some or all of our investment.

Mortgage investments that are not United States government insured and non-investment grade mortgage assets involve risk of loss.

We originate and acquire uninsured and non-investment grade mortgage loans and mortgage assets as part of our investment strategy. Such loans and assets include mezzanine loans and bridge loans. While holding such interests, we are subject to risks of borrower defaults, bankruptcies, fraud, losses and special hazard losses that are not covered by standard hazard insurance. In the event of any default under mortgage loans held by us, we bear the risk of loss of principal and non-payment of interest and fees to the extent of any deficiency between the value of the mortgage collateral and the principal amount of the mortgage loan. To the extent we suffer such losses with respect to our investments in mortgage loans, the value of our company and the price of our common stock may be adversely affected.

We invest in multi-family and commercial real estate loans, which involve a greater risk of loss than single family loans.

Our investments include multi-family and commercial real estate loans that are considered to involve a higher degree of risk than single family residential lending because of a variety of factors, including generally larger loan balances, dependency for repayment on successful operation of the mortgaged property and tenant businesses operating therein, and loan terms that include amortization schedules longer than the stated maturity and provide for balloon payments at stated maturity rather than periodic principal payments. In addition, the value of commercial real estate can be affected significantly by the supply and demand in the market for that type of property.

We may invest in direct ownership of real estate, the value of which may fluctuate.

We may make investments in the direct ownership of real property. In addition, our loans held for investment are generally directly or indirectly secured by a lien on real property that, upon the occurrence of a default on the loan, could result in our acquiring ownership of the property. Investments in real property or real property related assets are subject to varying degrees of risk. The value of each property is affected significantly by its ability to generate cash flow and net income, which in turn depends on the amount of rental income that can be generated net of expenses required to be incurred with respect to the property. The rental income from these properties may be adversely affected by a number of factors, including general economic climate and local real estate conditions, an oversupply of (or a reduction in demand for) space in properties in the areas where particular properties are located and the attractiveness of particular properties to prospective tenants. Net income from properties also is affected by such factors as the cost of compliance with government regulations, including zoning and tax laws, and the potential for liability under applicable laws. Many expenditures associated with properties (such as operating expenses and capital expenditures) cannot be reduced when there is a reduction in income from the properties. Adverse changes in these factors may have a material adverse effect on the ability of our borrowers to pay their loans, as well as on the value that we can realize from properties we own or acquire.

Risks of cost overruns and noncompletion of renovation of the properties underlying rehabilitation loans may materially adversely affect our investment.

The renovation, refurbishment or expansion by a borrower under a mortgaged property involves risks of cost overruns and noncompletion. Estimates of the costs of improvements to bring an acquired property up to standards established for the market position intended for that property may prove inaccurate. Other risks may include rehabilitation costs exceeding original estimates, possibly making a project uneconomical, environmental risks and rehabilitation and subsequent leasing of the property not being completed on schedule. If such renovation is not completed in a timely manner, or if it costs more than expected, the borrower may experience a prolonged impairment of net operating income and may not be able to make payments on our investment.

Participating interests may not be available and, even if obtained, may not be realized.

In connection with the acquisition and origination of certain structured finance assets, we may obtain participating interests, or equity “kickers,” in the owner of the property that entitle us to payments based upon a development’s cash flow, profits or any increase in the value of the development that would be realized upon a

refinancing or sale of the development. Competition for participating interests is dependent to a large degree upon market conditions. Participating interests are more difficult to obtain when multi-family and commercial real estate financing is available at relatively low interest rates. In the current interest rate environment, we may have greater difficulty obtaining participating interests. Participating interests are not government insured or guaranteed and are therefore subject to the general risks inherent in real estate investments. Therefore, even if we are successful in originating mortgage loans that provide for participating interests, there can be no assurance that such interests will result in additional payments to us.

Competition in acquiring desirable investments may limit their availability, which could, in turn, negatively affect our ability to maintain our dividend distribution.

We compete in investing in structured finance assets with numerous public and private real estate investment vehicles, such as other REITs, mortgage banks, pension funds, institutional investors and individuals. Structured finance assets are often obtained through a competitive bidding process. Many of our competitors are larger than us, have access to greater capital and other resources, have management personnel with more experience than our officers or our manager and have other advantages over us and our manager in conducting certain business and providing certain services. Competition may result in higher prices for structured finance assets, lower yields and a narrower spread of yields over our borrowing costs. In addition, competition for desirable investments could delay the investment of our equity capital in desirable assets, which may, in turn, reduce earnings per share and may negatively affect our ability to maintain our dividend distribution. There can be no assurance that we will achieve investment results that will allow any specified level of cash distribution.

Interest rate fluctuations may adversely affect the value of our assets, net income and common stock.

Interest rates are highly sensitive to many factors, including governmental monetary and tax policies, domestic and international economic and political considerations and other factors beyond our control. Interest rate fluctuations present a variety of risks including the risk of a mismatch between asset yields and borrowing rates, variances in the yield curve and fluctuating prepayment rates and may adversely affect our income and value of our common stock.

Prepayment rates can increase, thus adversely affecting yields.

The value of our assets may be affected by prepayment rates on mortgage loans. Prepayment rates on loans are influenced by changes in current interest rates and a variety of economic, geographic and other factors beyond our control, and consequently, such prepayment rates cannot be predicted with certainty. In periods of declining interest rates, prepayments on loans generally increase. If general interest rates decline as well, the proceeds of such prepayments received during such periods are likely to be reinvested by us in assets yielding less than the yields on the assets that were prepaid. In addition, the market value of the structured finance assets may, because of the risk of prepayment, benefit less than other fixed income securities from declining interest rates. Under certain interest rate and prepayment scenarios we may fail to recoup fully our cost of acquisition of certain investments. A portion of our investments require payments of deferred interest upon prepayment or maturity of the investment. This deferred interest will generally discourage a borrower from repaying an investment ahead of its scheduled maturity. We may not be able to structure future investments that contain similar deferred interest payments.

Refinancing our credit facilities may materially adversely affect our results of operations.

Our loans held for investment may have maturities that are different from the maturities for the funds we borrow to finance them. If the funds we borrow mature before the loans we make, we would have to seek new financing that may not be on as favorable terms and our net income would be adversely affected.

Changes in market conditions may adversely affect our credit facilities and repurchase agreements.

Credit facilities, including repurchase agreements, involve the risk that the market value of the loans pledged or sold to the funding source by us may decline, in which case the lending institution may require us to provide additional collateral or pay down a portion of the funds advanced. In addition, in the event the funding

source files for bankruptcy or becomes insolvent, our loans may become subject to the bankruptcy or insolvency proceedings, thus depriving us, at least temporarily, of the benefit of these assets. Such an event could materially adversely affect our business.

The geographic concentration of the properties underlying our investments may increase our risk of loss.

We have not established any limit upon the geographic concentration of properties underlying our investments. As a result, properties underlying our investments may be overly concentrated in certain geographic areas, and we may experience losses as a result. As of September 30, 2003, 22%, 20%, 16%, 10% and 10% of the outstanding balance of the structured finance investments we hold had underlying properties in Florida, New York, Maryland, Nevada and New Jersey, respectively. A worsening of economic conditions in these states could have an adverse effect on our business, including reducing the demand for new financings, limiting the ability of customers to pay financed amounts and impairing the value of our collateral.

Volatility of values of multi-family and commercial properties may adversely affect our loans and investments.

Multi-family and commercial property values and net operating income derived from such properties are subject to volatility and may be affected adversely by a number of factors, including, but not limited to, national, regional and local economic conditions (which may be adversely affected by industry slowdowns and other factors); local real estate conditions (such as an oversupply of housing, retail, industrial, office or other commercial space); changes or continued weakness in specific industry segments; construction quality, age and design; demographic factors; retroactive changes to building or similar codes; and increases in operating expenses (such as energy costs). In the event a property's net operating income decreases, a borrower may have difficulty paying our loan, which could result in losses to us. In addition, decreases in property values reduce the value of the collateral and the potential proceeds available to a borrower to repay our loans, which could also cause us to suffer losses.

We may be unable to generate sufficient revenue from operations to pay our operating expenses and to pay dividends to our stockholders.

As a REIT, we are generally required to distribute at least 90% of our taxable income each year to our stockholders. We intend to distribute to our stockholders all or substantially all of our taxable income each year so as to qualify for the tax benefits accorded to REITs, but our ability to make distributions may be adversely affected by the risk factors described in this prospectus. We may not be able to make distributions in the future. In the event of continued or future downturns in our operating results and financial performance or unanticipated declines in the value of our mortgage portfolio, we may be unable to declare or pay distributions to our stockholders. The timing and amount of distributions are in the sole discretion of our board of directors, which considers, among other factors, our financial performance, debt service obligations and applicable debt covenants (if any), REIT qualification requirements and other tax considerations and capital expenditure requirements.

Among the factors that could adversely affect our results of operations and impair our ability to make distributions to our stockholders are:

- the investment of the proceeds of the original offering;
- our ability to make profitable structured finance investments;
- defaults in our investment portfolio or decreases in the value of our portfolio;
- the fact that anticipated operating expense levels may not prove accurate, as actual results may vary from estimates; and
- increased debt service requirements, including those resulting from higher interest rates on variable rate indebtedness.

Some of these factors are beyond our control and a change in any one of these factors could affect our ability to make distributions. The level of our distributions may not increase over time.

Failure to maintain an exemption from the Investment Company Act would adversely affect our results of operations.

We believe that we conduct our business in a manner that allows us to avoid being regulated as an investment company under the Investment Company Act of 1940, as amended, or the Investment Company Act. Under Section 3(c) (5) (C), the Investment Company Act exempts entities that are primarily engaged in the business of purchasing or otherwise acquiring "mortgages and other liens on and interests in real estate." The staff of the SEC has provided guidance on the availability of this exemption. Specifically, the staff's position generally requires us to maintain at least 55% of our assets directly in qualifying real estate interests. To constitute a qualifying real estate interest under this 55% requirement, a real estate interest must meet various criteria. Loans that are secured by equity interests in the owners of real property rather than the property itself, direct equity interests in entities that own real property and certain mortgage backed securities may not qualify for purposes of the 55% requirement depending upon the type of entity. Our ownership of these equity interests, therefore, is limited by the provisions of the Investment Company Act.

We are subject to various risks related to our use of, and dependence on, debt.

The amount we have to pay on variable rate debt increases as interest rates increase, which may decrease cash available for distribution to stockholders. We cannot assure you that we will be able to meet our debt service obligations. If we do not meet our debt service obligations, we risk the loss of some or all of our assets. Changes in economic conditions or our financial results or prospects could (1) result in higher interest rates on variable rate debt, (2) reduce the availability of debt financing generally or debt financing at favorable rates, (3) reduce cash available for distribution to stockholders and (4) increase the risk that we could be forced to liquidate assets to repay debt, any of which could have a material adverse affect on us.

If we violate covenants in any of our debt agreements, we could be required to repay all or a portion of our indebtedness before maturity at a time when we might be unable to arrange financing for such repayment on attractive terms, if at all. Violations of certain debt covenants may result in our being unable to borrow unused amounts under a line of credit, even if repayment of some or all borrowings is not required.

In any event, financial covenants under our current or future debt obligations could impair our business strategies by limiting our ability to borrow beyond certain amounts or for certain purposes.

A general economic slowdown could have a material effect on our business.

Periods of economic slowdown or recession may be accompanied by declines in real estate values. Delinquencies, foreclosures and losses generally increase during economic slowdowns or recessions. Because a portion of the investments we make are subordinate to other creditors, the rate of delinquencies, foreclosures and losses on our mortgage loans could be higher than those generally experienced in the mortgage lending industry. If our loans go into and remain in default, we may have to foreclose and may incur substantial losses. Because real estate investments are relatively illiquid, our ability to promptly sell one or more investments or properties underlying foreclosed investments in our portfolio may be limited. In addition, any material decline in real estate values would increase the loan to value ratio of loans that we have previously extended, weaken our collateral coverage and increase the possibility of a loss in the event of a borrower default. Any sustained period of increased delinquencies, foreclosures or losses is likely to materially and adversely affect our ability to finance loans in the future. Furthermore, certain international events have caused significant uncertainty in the global financial markets. While the long term effects of these events and their potential consequences are uncertain, they could have a material adverse effect on general economic conditions, consumer confidence and market liquidity.

Liability relating to environmental matters may impact the value of the underlying properties.

Under various federal, state and local laws, an owner or operator of real property may become liable for the costs of removal of certain hazardous substances released on its property. Such laws often impose liability without regard to whether the owner or operator knew of, or was responsible for, the release of such hazardous substances. The presence of hazardous substances may adversely affect an owner's ability to sell real estate or borrow using real

estate as collateral. To the extent that an owner of an underlying property becomes liable for removal costs, the ability of the owner to make debt payments may be reduced, which in turn may adversely affect the value of the relevant mortgage asset held by us.

We are substantially controlled by one of our principal stockholders.

Mr. Ivan Kaufman is our chairman and chief executive officer and the president and chief executive officer of our manager. Further, the Kaufman entities beneficially own an 88% membership interest in ACM. ACM owns approximately 3.1 million operating partnership units, representing a 28% limited partnership interest in our operating partnership. The operating partnership units are redeemable for approximately 3.1 million shares of our common stock. Each of the operating partnership units ACM owns is paired with one share of our special voting preferred stock, each of which entitle ACM to one vote on all matters submitted to a vote of our stockholders. Therefore, ACM is currently entitled to approximately 3.1 million votes, or 28% of the voting power of our outstanding stock. Because of his position with us and our manager and his ability to effectively vote a substantial minority of our outstanding voting stock, Mr. Kaufman has significant influence over our policies and strategy.

Risks Related to Conflicts of Interest

We are dependent on our manager with whom we have conflicts of interest.

We have only eleven employees, including Mr. Fred Weber, Mr. Daniel M. Palmier, Mr. John C. Kovarik and an eight-person asset management group, and are dependent upon our manager, ACM, to provide services to us that are vital to our operations. Our chairman, chief executive officer and president, Mr. Ivan Kaufman, is also the chief executive officer and president of our manager. Our chief financial officer, Mr. Frederick Herbst, is the chief financial officer of our manager and our secretary and general counsel, Mr. Walter Horn, is the general counsel of our manager. In addition, the Kaufman entities own an approximate 88% membership interest in ACM and Messrs. Herbst, Weber, Palmier, Martello and Horn, collectively hold a 5% ownership interest in ACM. Mr. Martello also serves as the trustee of one of the Kaufman entities that holds a majority ownership interest in our manager and co-trustee of another Kaufman entity that owns an equity interest in ACM. Our manager holds a 28% limited partnership interest in our operating partnership and 28% of the voting power of our stock (without giving effect to the exercise of ACM's warrants).

We may enter into transactions in the future with ACM with the approval of the independent members of our board of directors. ACM may from time to time provide permanent mortgage loan financing to clients of ours, which will be used to refinance bridge financing provided by us. We and ACM may also make loans to the same borrower or to borrowers that are under common control. Additionally, our policies and those of ACM may require us to enter into intercreditor agreements in situations where loans are made by us and ACM to the same borrower.

We have entered into a management agreement with our manager under which our manager provides us with all of the services vital to our operations other than asset management services. However, the management agreement was not negotiated at arm's length and its terms, including fees payable, may not be as favorable to us as if it had been negotiated with an unaffiliated third party. Certain matters relating to our organization also were not approved at arm's length and the terms of the contribution of assets to us may not be as favorable to us as if the contribution was with an unaffiliated third party.

The results of our operations is dependent upon the availability of, and our manager's ability to identify and capitalize on, investment opportunities. Our manager's officers and employees are also responsible for providing the same services for ACM's portfolio of investments. As a result, they may not be able to devote sufficient time to the management of our business operations.

Conflicts of interest could arise in transactions where we lend to borrowers in which ACM holds an equity interest.

ACM has contributed loans to us that are secured by properties in which ACM owns equity interests in the borrower. Every transaction that we enter into with an entity in which ACM holds equity interests raises a potential

conflict of interest. Conflicts of interest with respect to these mortgage loans include, among others, decisions regarding (1) whether to waive defaults of such borrower, (2) whether to foreclose on a loan, and (3) whether to permit additional financing on the properties securing our investments other than financing provided by us.

Termination of our management agreement may be costly.

Termination of the management agreement with our manager is difficult and costly. Our management agreement may be terminated by us (1) without cause, after the initial two year period, on six months' prior written notice and (2) with cause in the event of our manager's uncured breach of the management agreement, if approved by a majority of our independent directors. If we terminate the management agreement without cause or elect not to renew the management agreement in connection with the decision to manage our portfolio internally, we are required to pay our manager a termination fee equal to the base management fee and the incentive fee earned during the twelve month period preceding the termination. If we terminate the management agreement without cause (except in a case where we become internally managed) or elect not to renew the management agreement for any other reason, including a change of control of us, we are required to pay our manager a termination fee equal to two times the base management fee and the incentive fee earned during the twelve-month period preceding the termination. If we terminate without cause and become internally managed, we are required to pay our manager a termination fee equal to the base management fee and the incentive fee earned during the 12-month period preceding the termination. These provisions may increase the effective cost to us of terminating the management agreement, thereby adversely affecting our ability to terminate our manager without cause.

If our manager terminates the management agreement, we may not be able to find an adequate replacement manager.

At any time after the initial two-year term of the management agreement, our manager may terminate the management agreement without cause or elect not to renew the agreement, without penalty (except in certain cases of a change in control of the manager during the first three years of the management agreement), on six months' prior written notice to us. In the event of our uncured breach of the management agreement, our manager may also terminate the agreement for cause without penalty. If our manager terminates our agreement, we may not be able to find an adequate replacement manager.

Our directors have approved very broad investment guidelines for our manager and do not approve each investment decision made by our manager.

Our manager is authorized to follow very broad investment guidelines. Our directors will periodically review our investment guidelines and our investment portfolio. However, our board does not review each proposed investment. In addition, in conducting periodic reviews, the directors rely primarily on information provided to them by our manager. Furthermore, transactions entered into by our manager may be difficult or impossible to unwind by the time they are reviewed by the directors. Our manager has great latitude within the broad investment guidelines in determining the types of assets it may decide are proper investments for us.

Our manager has broad discretion to invest funds and may acquire structured finance assets where the investment returns are substantially below expectations or that result in net operating losses.

Our manager has broad discretion, within the general investment criteria established by our board of directors, to allocate the proceeds of the original offering and to determine the timing of investment of such proceeds. Such discretion could result in allocation of proceeds to assets where the investment returns are substantially below expectations or that result in net operating losses, which would materially and adversely affect our business, operations and results.

The management compensation structure that we have agreed to with our manager may cause our manager to invest in high risk investments. In addition to its base management fee, our manager is entitled to receive incentive compensation based in part upon our achievement of targeted levels of funds from operations. In evaluating investments and other management strategies, the opportunity to earn incentive compensation based on funds from operations may lead our manager to place undue emphasis on the maximization of funds from operations

at the expense of other criteria, such as preservation of capital, in order to achieve higher incentive compensation. Investments with higher yield potential are generally riskier or more speculative. This could result in increased risk to the value of our invested portfolio.

Risks Related to Our Status as a REIT

If we do not qualify as a REIT or fail to remain qualified as a REIT, we will be subject to tax as a regular corporation and could face substantial tax liability.

We intend to operate so as to qualify as a REIT under the Internal Revenue Code. However, qualification as a REIT involves the application of highly technical and complex Internal Revenue Code provisions for which only limited judicial and administrative interpretations exist. Even a technical or inadvertent mistake could jeopardize our REIT status. Our continued qualification as a REIT will depend on our satisfaction of certain asset, income, organizational, distribution, stockholder ownership and other requirements on a continuing basis. In particular, our ability to qualify as a REIT depends in part on the relative values of our common and special voting preferred stock, which have not been determined by independent appraisal, are susceptible to fluctuation, and could, if successfully challenged by the IRS, cause us to fail to meet the ownership requirements. In addition, our ability to satisfy the requirements to qualify as a REIT depends in part on the actions of third parties over which we have no control or only limited influence, including in cases where we own a preferred equity interest in an entity that is classified as a partnership for U.S. federal income tax purposes.

Furthermore, new tax legislation, administrative guidance or court decisions, in each instance potentially with retroactive effect, could make it more difficult or impossible for us to qualify as a REIT. If we fail to qualify as a REIT in any tax year, then:

- we would be taxed as a regular domestic corporation, which, among other things, means we would be unable to deduct distributions to stockholders in computing taxable income and would be subject to federal income tax on our taxable income at regular corporate rates;
- any resulting tax liability could be substantial and would reduce the amount of cash available for distribution to stockholders; and
- unless we were entitled to relief under applicable statutory provisions, we would be disqualified from treatment as a REIT for the subsequent four taxable years following the year during which we lost our qualification, and thus, our cash available for distribution to stockholders would be reduced for each of the years during which we did not qualify as a REIT.

Even if we remain qualified as a REIT, we may face other tax liabilities that reduce our cash flow.

Even if we remain qualified for taxation as a REIT, we may be subject to certain federal, state and local taxes on our income and assets. Any of these taxes would decrease cash available for distribution to our stockholders. In addition, in order to meet the REIT qualification requirements, or to avert the imposition of a 100% tax that applies to certain gains derived by a REIT from dealer property or inventory, we may hold some of our assets through taxable subsidiary corporations. See “Federal Income Tax Considerations-Taxation of Arbor Realty.”

Complying with REIT requirements may cause us to forego otherwise attractive opportunities.

To qualify as a REIT for federal income tax purposes we must continually satisfy tests concerning, among other things, the sources of our income, the nature and diversification of our assets, the amounts we distribute to our stockholders and the ownership of our stock. We may be required to make distributions to stockholders at disadvantageous times or when we do not have funds readily available for distribution. Thus, compliance with the REIT requirements may hinder our ability to operate solely on the basis of maximizing profits.

Complying with REIT requirements may force us to liquidate otherwise attractive investments.

To qualify as a REIT we must ensure that at the end of each calendar quarter at least 75% of the value of our assets consists of cash, cash items, government securities and qualified REIT real estate assets. The remainder

of our investment in securities (other than government securities and qualified real estate assets) generally cannot include more than 10% of the outstanding voting securities of any one issuer or more than 10% of the total value of the outstanding securities of any one issuer. In addition, in general, no more than 5% of the value of our assets (other than government securities and qualified real estate assets) can consist of the securities of any one issuer, and no more than 20% of the value of our total securities can be represented by securities of one or more taxable REIT subsidiaries. If we fail to comply with these requirements at the end of any calendar quarter, we must correct such failure within 30 days after the end of the calendar quarter to avoid losing our REIT status and suffering adverse tax consequences. As a result, we may be required to liquidate otherwise attractive investments.

Liquidation of collateral may jeopardize our REIT status.

To continue to qualify as a REIT, we must comply with requirements regarding our assets and our sources of income. If we are compelled to liquidate our mortgage and preferred equity investments to satisfy our obligations to our lenders, we may be unable to comply with these requirements, ultimately jeopardizing our status as a REIT.

Complying with REIT requirements may force us to borrow to make distributions to stockholders.

As a REIT, we must generally distribute at least 90% of our annual taxable income, subject to certain adjustments, to our stockholders. To the extent that we satisfy the distribution requirement, but distribute less than 100% of our taxable income, we will be subject to federal corporate income tax on our undistributed taxable income. In addition, we will be subject to a 4% nondeductible excise tax if the actual amount that we pay out to our stockholders in a calendar year is less than a minimum amount specified under federal tax laws.

From time to time, we may generate taxable income greater than our net income for financial reporting purposes due to, among other things, amortization of capitalized purchase premiums, or our taxable income may be greater than our cash flow available for distribution to stockholders (for example, where a borrower defers the payment of interest in cash pursuant to a contractual right or otherwise). If we do not have other funds available in these situations we could be required to borrow funds, sell investments at disadvantageous prices or find another alternative source of funds to make distributions sufficient to enable us to pay out enough of our taxable income to satisfy the REIT distribution requirement and to avoid corporate income tax and the 4% excise tax in a particular year. These alternatives could increase our costs or reduce our equity.

We may be subject to adverse legislative or regulatory tax changes that could reduce the market price of our common stock.

At any time, the federal income tax laws governing REITs or the administrative interpretations of those laws may be amended. Any of those new laws or interpretations may take effect retroactively and could adversely affect us or you as a stockholder. On May 28, 2003, The Jobs and Growth Tax Relief Reconciliation Act of 2003 was enacted, which decreases the tax rate on most dividends paid by corporations to individual investors to a maximum of 15% from current rates, and such rates are retroactive to the beginning of January 2003. REIT dividends, with limited exceptions, will not benefit from the rate reduction, because a REIT's income generally is not subject to corporate level tax. As such, this legislation could cause shares in non-REIT corporations to be a more attractive investment to individual investors than shares in REITs and could have an adverse effect on the value of our common stock.

Your investment in our securities has various federal, state and local income tax risks that could affect the value of your investment.

Although the provisions of the Internal Revenue Code relevant to your investment in our securities are generally described in "Federal Income Tax Considerations," we strongly urge you to consult your own tax advisor concerning the effects of federal, state and local income tax law on an investment in our securities because of the complex nature of the tax rules applicable to REITs and their stockholders.

Restrictions on share accumulation in REITs could discourage a change of control of our company.

In order for us to qualify as a REIT, not more than 50% of the number or value of our outstanding shares of capital stock may be owned, directly or indirectly, by five or fewer individuals during the last half of a taxable year.

In order to prevent five or fewer individuals from acquiring more than 50% of our outstanding shares and a resulting failure to qualify as a REIT, our charter provides that, subject to certain exceptions, no person may own, or be deemed to own by virtue of the attribution provisions of the Internal Revenue Code, more than 9.6% of the aggregate value or number (whichever is more restrictive) of shares of our outstanding common stock or 9.6% by value of our outstanding capital stock. For purposes of this calculation, warrants held by such person will be deemed to have been exercised. The shares most recently acquired by a person that are in excess of these limits will not have any voting rights exerciseable by such person. Any attempt to own or transfer shares of our common or preferred stock in excess of the ownership limit without the consent of the board of directors will result in the shares being automatically transferred to a charitable trust (or otherwise be void) and be deemed to have been offered for sale to us for a period subsequent to the acquisition. Any person who acquires shares in excess of these limits is obliged to immediately give written notice to us and provide us with any information we may request in order to determine the effect of the acquisition on our status as a REIT.

While these restrictions are designed to prevent any five individuals from owning more than 50% of our shares, they could also discourage a change in control of our company. These restrictions may also deter tender offers that may be attractive to stockholders or limit the opportunity for stockholders to receive a premium for their shares if an investor makes purchases of shares to acquire a block of shares.

Complying with REIT requirements may limit our ability to hedge effectively.

The REIT provisions of the Internal Revenue Code may limit our ability to hedge our operations by requiring us to limit our income in each year from qualified hedges, together with any other income not generated from qualified real estate assets, to no more than 25% of our gross income. In addition, we must limit our aggregate income from nonqualified hedging transactions, from our provision of services and from other non-qualifying sources to no more than 5% of our annual gross income. As a result, we may have to limit our use of advantageous hedging techniques. This could result in greater risks associated with changes in interest rates than we would otherwise want to incur. If we were to violate the 25% or 5% limitations, we would possibly have to pay a penalty tax equal to the amount of income in excess of those limitations, multiplied by a fraction intended to reflect our profitability. If we fail to satisfy the REIT gross income tests, unless our failure was due to reasonable cause and not due to willful neglect, we could lose our REIT status for federal income tax purposes.

Risk Factors Related to the Offering

There is no public market for the offered securities, and there may be no market for the offered securities after the completion of this offering.

There has been no public market for the offered securities. We have agreed to use our best efforts to list or include the offered securities on The Nasdaq Stock Market, including The Nasdaq SmallCap Market, or the New York Stock Exchange, in our discretion, as soon as practicable after we are able to satisfy the applicable listing requirements for the offered securities, which will not occur for an indefinite period of time, if at all, after the registration statement of which this prospectus is a part is declared effective. If and when we apply for listing of the offered securities under the applicable listing requirements, we cannot guarantee that we will have the minimum number of holders required in order to list or include the offered securities on either The Nasdaq Stock Market, including The Nasdaq SmallCap Market, or the New York Stock Exchange. Consequently, because the warrants underlying the units do not become exercisable, detachable and fully tradable until after the registration of the common stock underlying the units under the Securities Act and listing on a national securities exchange or The Nasdaq Stock Market, including The Nasdaq SmallCap Market, the shares of common stock and the warrants may not be separately tradable for an indefinite period of time.

In addition, quotation through The Nasdaq Stock Market, including The Nasdaq SmallCap Market, or the New York Stock Exchange does not ensure that an actual market will develop for the offered securities. Accordingly, no assurance can be given as to (i) the likelihood that an actual market for the offered securities will develop, (ii) the

liquidity of any such market, (iii) the ability of any holder to sell the offered securities, or (iv) the prices that may be obtained for the offered securities.

Although JMP has advised us that they intend to make a market in the units, they are only obligated to make a market in the units and use reasonable efforts to engage additional market makers in connection with our listing on The Nasdaq Stock Market, including The Nasdaq SmallCap Market, or the New York Stock Exchange, as provided in the registration rights agreement with JMP. Except as provided in the registration rights agreement, JMP may discontinue market making at any time without notice. Their market-making activity will be subject to the limitations imposed by the securities laws. We cannot guarantee that the market for the units will be maintained. The trading price of the units will likely decline if there ceases to be an active trading market for them.

We may not be able to make distributions in the future.

We pay, and intend to continue to pay, quarterly dividends and to make distributions to our stockholders in amounts such that all or substantially all of our taxable income in each year, subject to certain adjustments, is distributed. Such distributions, together with our expected compliance with other requirements, should enable us to qualify for the tax benefits accorded to a REIT under the Internal Revenue Code. However, our ability to pay dividends may be adversely affected by various factors, including the risk factors described in this prospectus. All distributions are made at the discretion of our board of directors and depend upon our earnings, our financial condition, maintenance of our REIT status and other tax considerations and such other factors as our board of directors may deem relevant from time to time. There are no assurances of our ability to pay dividends in the future. In addition, some of our distributions may include a return of capital.

Our charter generally does not permit ownership in excess of 9.6% of our common or capital stock, and attempts to acquire our capital stock in excess of these limits are ineffective without prior approval from our board of directors.

For the purpose of preserving our REIT qualification, our charter generally prohibits direct or constructive ownership by any person of more than 9.6% (by value or by number of shares, whichever is more restrictive) of the outstanding shares of our common stock or 9.6% (by value) of our outstanding shares of capital stock. For purposes of this calculation, warrants held by such person will be deemed to have been exercised if such exercise would result in a violation. Our charter's constructive ownership rules are complex and may cause the outstanding stock owned by a group of related individuals or entities to be deemed to be constructively owned by one individual or entity. As a result, the acquisition of less than these percentages of the outstanding stock by an individual or entity could cause that individual or entity to own constructively in excess of these percentages of the outstanding stock and thus be subject to our charter's ownership limit. Any attempt to own or transfer shares of our common or preferred stock in excess of the ownership limit without the consent of the board of directors will result in the shares being automatically transferred to a charitable trust or otherwise be void.

Maryland takeover statutes may prevent a change of our control. This could depress our stock price.

Under Maryland law, "business combinations" between a Maryland corporation and an interested stockholder or an affiliate of an interested stockholder are prohibited for five years after the most recent date on which the interested stockholder becomes an interested stockholder. These business combinations include a merger, consolidation, share exchange or, in circumstances specified in the statute, an asset transfer or issuance or reclassification of equity securities. The statute permits various exceptions, including business combinations that are exempted by the board of directors before the time that an interested stockholder becomes an interested stockholder. An interested stockholder is defined as:

- any person who beneficially owns 10% or more of the voting power of the corporation's shares; or
- an affiliate or associate of the corporation who, at any time within the two year period prior to the date in question, was the beneficial owner of 10% or more of the voting power of the then outstanding voting stock of the corporation.

A person is not an interested stockholder under the statute if the board of directors approved in advance the transaction by which he otherwise would have become an interested stockholder.

After the five year prohibition, any business combination between the Maryland corporation and an interested stockholder generally must be recommended by the board of directors of the corporation and approved by the affirmative vote of at least:

- 80% of the votes entitled to be cast by holders of outstanding shares of voting stock of the corporation; and
- two-thirds of the votes entitled to be cast by holders of voting stock of the corporation other than shares held by the interested stockholder with whom or with whose affiliate the business combination is to be effected or held by an affiliate or associate of the interested stockholder.

The business combination statute may prevent or discourage others from trying to acquire control of us and increase the difficulty of consummating any offer, including potential acquisitions that might involve a premium price for our common stock or otherwise be in the best interest of our stockholders. See "Important Provisions of Maryland Law and of Our Charter and Bylaws—Business Combinations" and "—Control Share Acquisitions."

Our staggered board and other provisions of our charter and bylaws may prevent a change in our control.

Our board of directors is divided into three classes of directors. The current terms of the Class I, Class II and Class III directors will expire in 2004, 2005 and 2006, respectively. Directors of each class are chosen for three year terms upon the expiration of their current terms, and each year one class of directors is elected by the stockholders. The staggered terms of our directors may reduce the possibility of a tender offer or an attempt at a change in control, even though a tender offer or change in control might be in the best interest of our stockholders. In addition, our charter and bylaws also contain other provisions that may delay or prevent a transaction or a change in control that might involve a premium price for our common stock or otherwise be in the best interest of our stockholders. See "Important Provisions of Maryland Law and of Our Charter and Bylaws."

Future offerings of debt securities, which would be senior to our common stock upon liquidation, or equity securities, which would dilute the holdings of our existing stockholders and may be senior to our common stock for the purposes of dividend distributions or distributions upon liquidation, may adversely affect the market price of our common stock.

In the future we may attempt to increase our capital resources by making additional offerings of debt or equity securities, including commercial paper, medium term notes, senior or subordinated notes and classes of preferred stock or common stock. Upon liquidation, holders of our debt securities and shares of preferred stock and lenders with respect to other borrowings will receive a distribution of our available assets prior to the holders of our common stock. Additional equity offerings may dilute the holdings of our existing stockholders or reduce the market price of our common stock, or both. If we decide to issue preferred stock in addition to our special voting preferred stock already issued, it could have a preference on liquidating distributions or a preference on dividend payments that could limit our ability to make a dividend distribution to the holders of our common stock. Because our decision to issue securities in any future offering will depend on market conditions and other factors beyond our control, we cannot predict or estimate the amount, timing or nature of our future offerings. Thus, our stockholders bear the risk of our future offerings reducing the market price of our common stock and diluting their stock holdings in us.

Securities eligible for future sale may have adverse effects on our share price.

The effect of future sales of our common stock or the availability of our common stock for future sales may affect the market price of our common stock. As of the date of this prospectus, we have 9,809,567 shares of our common stock outstanding (or authorized for issuance upon exercise of the warrants underlying our units for shares of common stock) and 3,776,069 shares of our common stock authorized for issuance upon redemption of operating partnership units (including 629,345 operating partnership units issuable upon exercise of 629,345 warrants for additional operating partnership units). Furthermore, we satisfy our obligation to pay up to 25% of the incentive

compensation payable to our manager under the management agreement with shares of our common stock. The issuance of common stock could cause dilution of our existing common stock and a decrease in the market price.

You should not rely on lock-up agreements in connection with the original offering to limit the number of units sold into the market.

In connection with the original offering, we agreed with JMP not to offer to sell, contract to sell, or otherwise dispose of, loan, pledge or grant any rights with respect to any shares of our common stock, any options or warrants to purchase any shares of our common stock or any securities convertible into or exercisable for any of our common stock, including our units, for a period of 180 days following the completion of the original offering, subject to certain exceptions. ACM and each of the persons serving as our directors and executive officers at the consummation of the original offering also entered into lock-up agreements with respect to their units, common stock, warrants and the shares of common stock issuable upon redemption of operating partnership units restricting the sale of such securities without the consent of JMP until the earlier of 180 days after the date of effectiveness of the registration statement of which this prospectus is a part or two years from the consummation of original offering, subject to certain exceptions. JMP may, at any time, release all or a portion of the securities subject to the foregoing lock-up provisions. If the restrictions under the lock-up agreements with members of our senior management and directors are waived or terminated, approximately 260,750 units will be available for sale into the market, subject only to applicable securities rules and regulations, which could reduce the market price for the offered securities.

An increase in market interest rates may have an adverse effect on the market price of our securities.

One of the factors that investors may consider in deciding whether to buy or sell our securities is our dividend rate as a percentage of our share or unit price relative to market interest rates. If the market price of our securities is based primarily on the earnings and return that we derive from our investments and income with respect to our properties and our related distributions to stockholders, and not from the market value or underlying appraised value of the properties or investments themselves, then interest rate fluctuations and capital market conditions will likely affect the market price of our securities. For instance, if market rates rise without an increase in our dividend rate, the market price of our securities could decrease as potential investors may require a higher dividend yield on our common stock or seek other securities paying higher dividends or interest. In addition, rising interest rates would result in increased interest expense on our variable rate debt, thereby adversely affecting cash flow and our ability to service our indebtedness and pay dividends.

Broad market fluctuations could negatively impact the market price of our common stock.

The stock market has experienced extreme price and volume fluctuations that have affected the market price of many companies in industries similar or related to ours and that have been unrelated to these companies' operating performances. These broad market fluctuations could reduce the market price of our common stock. Furthermore, our operating results and prospects may be below the expectations of public market analysts and investors or may be lower than those of companies with comparable market capitalizations, which could lead to a material decline in the market price of our common stock.

FORWARD LOOKING STATEMENTS

We make forward looking statements in this prospectus that are subject to risks and uncertainties. These forward looking statements include information about possible or assumed future results of our business and our financial condition, liquidity, results of operations, plans, and objectives. They also include, among other things, statements concerning anticipated revenues, income or loss, capital expenditures, dividends, capital structure, or other financial terms, as well as statements regarding the subjects that are forward looking by their nature, such as:

- our business strategy;
- completion of any pending transactions;
- our ability to obtain future financing arrangements;
- our understanding of our competition;
- our projected operating results;
- the operating results presented in the historical consolidated financial statements included in this prospectus;
- market trends;
- estimates relating to our future dividends;
- projected capital expenditures; and
- the impact of technology on our operations and business.

The forward looking statements are based on our beliefs, assumptions, and expectations of our future performance, taking into account the information currently available to us. We do not intend to update our forward looking statements. These beliefs, assumptions, and expectations can change as a result of many possible events or factors, not all of which are known to us. If a change occurs, our business, financial condition, liquidity, and results of operations may vary materially from those expressed in our forward looking statements. You should carefully consider this risk when you make a decision concerning an investment in our securities, along with the following factors, among others, that could cause actual results to vary from our forward looking statements:

- the factors referenced in this prospectus, including those set forth under the sections captioned “Risk Factors” and “Arbor Realty Trust, Inc.;”
- general volatility of the capital markets and the market price of our common stock;
- changes in our business or investment strategy;
- availability, terms and deployment of capital;
- availability of qualified personnel;
- changes in our industry and the market in which we operate, interest rates or the general economy; and
- the degree and nature of our competition.

When we use words such as “will likely result,” “may,” “shall,” “will,” “believe,” “expect,” “anticipate,” “project,” “intend,” “estimate,” “goal,” “objective,” or similar expressions, we intend to identify forward looking statements. You should not place undue reliance on these forward looking statements. We are not obligated to publicly update or revise any forward looking statements, whether as a result of new information, future events, or otherwise.

USE OF PROCEEDS

The selling stockholders will receive all of the proceeds from the sale of the securities. We will not receive any proceeds from the sale of the securities.

DISTRIBUTION POLICY

We have made and intend to make, regular quarterly distributions to our stockholders. To qualify as a REIT we must distribute to our stockholders an amount at least equal to:

- 90% of our REIT taxable income, determined before the deduction for dividends paid and excluding any net capital gain (which does not necessarily equal net income as calculated in accordance with generally accepted accounting principals); plus
- 90% of the excess of our net income from foreclosure property (as defined in Section 856 of the Internal Revenue Code) over the tax imposed on such income by the Internal Revenue Code; less
- any excess non-cash income (as determined under the Internal Revenue Code). See “Federal Income Tax Considerations.”

We are subject to income tax on income that is not distributed and to an excise tax to the extent that certain percentages of our income are not distributed by specified dates. See “Federal Income Tax Considerations.” Income as computed for purposes of the foregoing tax rules will not necessarily correspond to our income as determined for financial reporting purposes.

Distributions are authorized by our board of directors and declared by us based upon a number of factors, including actual results of operations, restrictions under Maryland law, the timing of the investment of our equity capital, the amount of funds from operations, our financial condition, debt service requirements, capital expenditure requirements, our taxable income, the annual distribution requirements under the REIT provisions of the Internal Revenue Code, our operating expenses and other factors our directors deem relevant. Our ability to make distributions to our stockholders depends upon our receipt of distributions from our operating partnership, Arbor Realty Limited Partnership, which may depend, in part, upon the performance of our investment portfolio, and, in turn, from ACM’s management of our business. Distributions are made in cash to the extent that cash is available for distribution.

Distributions to stockholders are generally taxable to our stockholders as ordinary income, although a portion of such distributions may be designated by us as long term capital gain or may constitute a return of capital. We will furnish annually to each of our stockholders a statement setting forth distributions paid during the preceding year and their federal income tax status. For a discussion of the federal income tax treatment of our distributions, see “Federal Income Tax Considerations—Taxation of Arbor Realty” and “Federal Income Tax Considerations—Taxation of Stockholders.”

We may not be able to generate sufficient revenue from operations to pay distributions to our stockholders. In addition, our directors may change our distribution policy in the future. See “Risk Factors.”

Our charter allows us to issue preferred stock that could have a preference on distributions. We currently have no intention to issue any such preferred stock, but if we do, the dividend preference on the preferred stock could limit our ability to make a dividend distribution to the holders of our common stock. We have previously issued approximately 3.1 million shares of our special voting preferred stock to ACM which does not have any preferential dividend, except a $.01 per share liquidation preference upon a liquidation or redemption.

On November 5, 2003, we declared a dividend of $.25 per share of common stock, payable with respect to the quarter ending September 30, 2003, to stockholders of record at the close of business on November 5, 2003. We plan to distribute this dividend on November 18, 2003.

PRICE RANGE OF UNITS

There is no established market for the units, which are not listed on any securities exchange, and trading in the units has not been quoted on any interdealer or over-the-counter bulletin board since the original offering. The units are eligible for trading in the Private Offering, Resales and Trading through Automated Linkages Market of the National Association of Securities Dealers, Inc., the PORTAL Market. As of November 3, 2003, there were approximately 140 beneficial owners of our units. This figure does not reflect the beneficial ownership of shares held in nominee name. The table below reflects the high and low prices for trades of our units as reported in PORTAL for each of the months indicated.

Month	High	Low	Dividend
July 2003	$75.250	$69.750	(1)
August 2003	—	—	(1)
September 2003	—	—	(1)
October 2003	$75.250	$75.125	

(1) On November 5, 2003 we declared a dividend of $.25 per share of common stock, payable with respect to the quarter ended September 30, 2003, to our common stockholders of record as of the close of business on November 5, 2003. We plan to distribute this dividend on November 18, 2003.

SELECTED UNAUDITED CONSOLIDATED FINANCIAL INFORMATION OF ARBOR REALTY TRUST, INC. AND SUBSIDIARIES

The following tables present selected historical consolidated financial information for the three months ended September 30, 2003 and at September 30, 2003. The selected historical consolidated financial information presented below under the captions "Consolidated Statement of Operations Data" and "Balance Sheet Data" have been derived from our unaudited, interim consolidated financial statements and include all adjustments, consisting only of normal recurring accruals, which management considers necessary for a fair presentation of the historical consolidated financial statements for such period. The information presented under the caption "Consolidated Statement of Operations Data" for the three months ended September 30, 2003 is not necessarily indicative of any other interim period or of the year ended December 31, 2003. In addition, since the information presented below is only a summary and does not provide all of the information contained in our historical consolidated financial statements, including the related notes, you should read it in conjunction with "Management's Discussion and Analysis of Financial Condition and Results of Operations of Arbor Realty Trust, Inc. and Subsidiaries" and our historical consolidated financial statements, including the related notes, included elsewhere in this prospectus.

	Three Months Ended September 30, 2003 (unaudited)
Statement of Operations Data:	
Interest Income	$ 4,664,115
Other income	6,375
Total revenue	4,670,490
Total expenses	3,183,411
Net income	1,074,587
Earnings per share, basic and diluted[(1)]	.13
Dividends declared per common share [(2)]	.25

	At September 30, 2003
Balance Sheet Data:	(unaudited)
Loans and investments, net	$214,237,458
Related party loans, net	26,000,000
Total assets	255,389,573
Notes payable and repurchase agreements	91,913,811
Total liabilities	97,831,411
Minority interest	44,309,289
Total stockholders' equity	113,248,873

	Three Months Ended September 30, 2003 (unaudited)
Other Data:	
Total originations	$ 39,014,922

(1) The warrants underlying the units issued in the original offering at $75.00 per unit have an exercise price of $15.00 per share and expire on July 1, 2005. This exercise price is equal to the price per share of common stock in the original offering and approximates the market value of our common stock at September 30, 2003. Therefore, the assumed exercise of the warrants were not considered to be dilutive for purposes of calculating diluted earnings per share.

(2) On November 5, 2003, we declared a dividend of $.25 per share of common stock, payable with respect to the quarter ending September 30, 2003, to stockholders of record at the close of business on November 5, 2003.

SELECTED CONSOLIDATED FINANCIAL INFORMATION OF THE STRUCTURED FINANCE BUSINESS OF ARBOR COMMERCIAL MORTGAGE, LLC AND SUBSIDIARIES

On July 1, 2003, ACM contributed a portfolio of structured finance investments and related liabilities to our operating partnership. In addition, certain employees of ACM became our employees. These assets, liabilities and employees represented a substantial portion of ACM's structured finance business.

The tables on the following page present selected historical consolidated financial information of the structured finance business of ACM at the dates and for the periods indicated. The structured finance business did not operate as a separate legal entity or business division or segment of ACM but as an integrated part of ACM's consolidated business. Accordingly, the statements of revenue and direct operating expenses do not include charges from ACM for corporate general and administrative expense because ACM considered such items to be corporate expenses and did not allocate them to individual business units. These expenses included costs for ACM's executive management, corporate facilities and overhead costs, corporate accounting and treasury functions, corporate legal matters and other similar costs. The selected consolidated financial information presented under the caption "Consolidated Statement of Revenue and Direct Operating Expenses Data" for the years ended December 31, 2002, 2001 and 2000 and under the caption "Consolidated Statement of Assets and Liabilities Data" as of December 31, 2002 and 2001 have been derived from the audited consolidated financial statements of the structured finance business of ACM included elsewhere in this prospectus. The selected consolidated financial information presented under the caption "Consolidated Statement of Revenue and Direct Operating Expenses Data" for the years ended December 31, 1999 and 1998 and the caption "Consolidated Statement of Assets and Liabilities Data" as of December 31, 2000, 1999 and 1998 have been derived from the unaudited consolidated financial statements of the structured finance business of ACM.

The selected consolidated financial information presented under the caption "Consolidated Statement of Revenue and Direct Operating Expenses Data" for the six months ended June 30, 2003 and 2002 and the nine months ended September 30, 2002 and under the caption "Consolidated Statement of Assets and Liabilities Data" at June 30, 2003 have been derived from the unaudited interim consolidated financial statements of ACM's structured finance business and include all adjustments, consisting only of normal recurring accruals, which management considers necessary for a fair presentation of the historical consolidated financial information for such periods. The selected historical consolidated financial information presented under the caption "Consolidated Statement of Revenue and Direct Operating Expenses Data" for the six month period ended June 30, 2003 is not necessarily indicative of the results of any other interim period or the year ended December 31, 2003. The selected historical consolidated financial information presented under the caption "Consolidated Statement of Revenue and Direct Operating Expenses Data" for the six month period ended June 30, 2002 and the nine month period ended September 30, 2002 are not necessarily indicative of the results of any other interim period or the year ended December 31, 2002.

The consolidated financial statements of ACM's structured finance business included in this prospectus represent the consolidated financial position and results of operations of ACM's structured finance business during certain periods and at certain dates when ACM previously held our initial assets, as well as several other structured finance investments that we did not acquire in connection with our formation transactions. See "Arbor Realty Trust, Inc." Accordingly, the historical financial results of ACM's structured finance business are not indicative of our future performance. In addition, since the information presented is only a summary and does not provide all of the information contained in the consolidated financial statements of ACM's structured finance business, including related notes, you should read it in conjunction with "Management's Discussion and Analysis of Financial Condition and Results of Operations of the Structured Finance Business of Arbor Commercial Mortgage, LLC and Subsidiaries" and the consolidated financial statements of ACM's structured finance business, including related notes, contained elsewhere in this prospectus.

Consolidated Statement of Revenue and Direct Operating Expenses Data:

	Six Months Ended June 30,		Nine Months Ended September 30,	Year Ended December 31,				
	2003	2002	2002	2002	2001[1]	2000[1]	1999[1]	1998[1]
	(unaudited)		(unaudited)					
Interest Income	$ 7,688,465	$ 7,482,750	$ 10,798,414	$14,532,504	$14,667,916	$10,707,551	$ 6,964,873	$ 6,807,617
Gain on sale of loans and real estate	1,024,268	7,006,432	7,006,432	7,470,999	3,226,648	1,880,825	1,818,299	1,898,558
Income from equity affiliates	—	601,100	632,350	632,350	1,403,014	5,028,835	3,592,398	567,006
Income from real estate held for sale, net of operating expenses	—	—	—	—	—	—	925,999	1,608,172
Other income	1,552,414	553,625	572,161	1,090,106	1,668,215	652,970	2,838,639	7,064,294
Total revenue	10,265,147	15,643,907	19,009,357	23,725,959	20,965,793	18,270,181	16,140,208	17,945,647
Total direct operating expenses	5,737,688	8,344,302	10,775,555	13,639,755	10,997,800	9,227,274	7,145,469	6,589,274
Revenue in excess of direct operating expenses	4,527,459	7,299,605	8,233,802	10,086,204	9,967,993	9,042,907	8,994,739	11,356,373

Consolidated Statement of Assets and Liabilities Data:

	At June 30, 2003	At December 31,				
	(unaudited)	2002	2001	2000	1999	1998
Loans and investments, net	$204,561,578	$172,142,511	$160,183,066	$ 85,547,323	$50,156,022	$75,604,351
Related party loans, net	23,277,041	15,952,078	15,880,207	—	—	—
Investment in equity affiliates	3,654,573	2,586,026	2,957,072	20,506,417	23,459,586	20,092,793
Total assets	241,667,960	200,563,236	183,713,747	119,110,446	84,751,032	96,537,674
Notes payable and repurchase agreements	171,045,404	141,836,477	132,409,735	70,473,501	47,154,530	58,678,062
Total liabilities	172,686,366	144,280,806	134,086,301	72,266,700	48,025,934	59,193,306
Net assets	68,981,594	56,282,430	49,627,446	46,843,746	36,725,098	37,344,368

Other Data:

	Six Months Ended June 30,		Nine Months Ended September 30,	Year Ended December 31,				
	2003	2002	2002	2002	2001	2000	1999	1998
Total originations	$117,965,000	$30,660,000	$ 49,510,000	$130,043,000	$86,700,000	$108,378,000(2)	$120,378,900(2)	$230,718,353(2)

(1) In June 1998, ACM entered into a joint venture with SFG I, an affiliate of Nomura Asset Capital Corp., for the purpose of acquiring up to $250 million of structured finance investments. ACM and SFG I each made 50% of the capital contributions to the joint venture and shared profits equally. Nomura Asset Capital Corp. provided financing to the joint venture in the form of a repurchase agreement. On July 31, 2001, ACM purchased SFG I's interest in this venture. This buyout was accounted for by the purchase accounting method. Prior to the purchase, net income from this venture was recorded in income from equity affiliates. The activities of the former joint venture have been included in the statements of revenue and direct operating expenses from the date of acquisition, August 2001. See the consolidated financial statements of ACM's structured finance business and the related notes to the consolidated financial statements included elsewhere in this prospectus for further information.

(2) Total originations for 1998, 1999 and 2000 include originations from ACM's joint venture with SFG I discussed in footnote 1.

MANAGEMENT'S DISCUSSION & ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS OF ARBOR REALTY TRUST, INC. AND SUBSIDIARIES

You should read the following discussion in conjunction with the sections of this prospectus entitled "Risk Factors", "Forward-Looking Statements" and "Selected Consolidated Financial Information of Arbor Realty Trust, Inc. and Subsidiaries" and our historical consolidated financial statements, including related notes, included elsewhere in this prospectus.

Overview

We are a Maryland corporation that was formed in June 2003 to invest in real estate related bridge and mezzanine loans, preferred equity and, in limited cases, discounted mortgage notes and other real estate related assets. We conduct substantially all of our operations through our operating partnership.

On July 1, 2003, ACM contributed $213.1 million of structured finance assets and $169.2 million of borrowings supported by $43.9 million of equity in exchange for a commensurate equity ownership in our operating partnership. In addition, certain employees of ACM were transferred to our operating partnership. These assets, liabilities and employees represent a substantial portion of ACM's structured finance business. We are externally managed and advised by ACM and pay ACM a management fee in accordance with a management agreement. ACM will also originate, underwrite and service all structured finance assets on behalf of our operating partnership.

Concurrently with ACM's asset contribution, we consummated a private equity offering of units, each consisting of five shares of common stock and one warrant to purchase one share of common stock. Gross proceeds from the private financing totaled $120.2 million. Gross proceeds from the private financing combined with the concurrent equity contribution by ACM totaled approximately $164.1 million in equity capital. We paid offering expenses of $9.6 million resulting in stockholders' equity and minority interest of $154.5 million at our inception.

Sources of Operating Revenues

We derive our operating revenues primarily through the interest and other income received from making real estate related bridge and mezzanine loans and preferred equity investments. We provide bridge loans secured by first lien mortgages on the property to borrowers who are typically seeking short term capital to be used in an acquisition of property. The bridge loans we make typically range in size from $1 million to $25 million and have terms of up to seven years. We provide real property owners with mezzanine loans that are secured by pledges of ownership interests in entities that directly or indirectly control the real property or second mortgages. These loans typically range in size from $2 million to $15 million and have terms of up to seven years. We also make preferred equity investments in entities that directly or indirectly own real property.

In addition, we may derive operating revenue from income from equity affiliates relating to joint ventures that were formed with equity partners to acquire, develop and/or sell real estate assets.

We may also derive operating revenue from the gain on sale of loans and real estate. We may acquire (1) real estate for our own investment and, upon stabilization, disposition at an anticipated return and (2) real estate notes generally at a discount from lenders in situations where the borrower wishes to restructure and reposition its short term debt and the lender wishes to divest certain assets from its portfolio.

Critical Accounting Policies

Set forth below is a summary of the accounting policies that management believes are critical to the preparation of the consolidated financial statements included in this prospectus. Certain of the accounting policies used in the preparation of these consolidated financial statements are particularly important for an understanding of the financial position and results of operations presented in the historical consolidated financial statements included in this prospectus and require the application of significant judgment by management and, as a result, are subject to a degree of uncertainty.

Loans and Investments

Loans held for investment are intended to be held to maturity and, accordingly, are carried at cost, net of unamortized loan origination costs and fees, unless such loan or investment is deemed to be impaired. We invest in preferred equity interests that allow us to participate in a percentage of the underlying property's cash flows from operations and proceeds from a sale or refinancing. At the inception of each such investment, management must determine whether such investment should be accounted for as a loan, joint venture or as real estate. To date, management has determined that all such investments are properly accounted for and reported as loans.

Specific valuation allowances are established for impaired loans based on the fair value of collateral on an individual loan basis. The fair value of the collateral is determined by an evaluation of operating cash flow from the property during the projected holding period, and estimated sales value computed by applying an expected capitalization rate to the stabilized net operating income of the specific property, less selling costs, discounted at market discount rates.

If upon completion of the valuation, the fair value of the underlying collateral securing the impaired loan is less than the net carrying value of the loan, an allowance is created with a corresponding charge to the provision for loan losses. The allowance for each loan is maintained at a level believed adequate by management to absorb probable losses.

Revenue Recognition

Interest Income. Interest income is recognized on the accrual basis as it is earned. In most instances, the borrower pays an additional amount of interest at the time the loan is closed, an origination fee, and deferred interest upon maturity. This additional income, as well as any direct loan origination costs incurred, is deferred and recognized over the life of the related loan as a yield adjustment. Income recognition is suspended for loans when in the opinion of management a full recovery of income and principal becomes doubtful. Income recognition is resumed when the loan becomes contractually current and performance is demonstrated to be resumed. Several of the loans provide for accrual of interest at specified rates, which differ from current payment terms. Interest is recognized on such loans at the accrual rate subject to management's determination that accrued interest and outstanding principal are ultimately collectible, based on the underlying collateral and operations of the borrower. If management cannot make this determination regarding collectibility, interest income is recognized only upon actual receipt.

Recently Issued Accounting Pronouncements

In January 2003, the FASB issued FASB Interpretation No. 46, "Consolidation of Variable Interest Entities" ("FIN 46"). FIN 46 provides guidance on identifying entities for which control is achieved through means other than through voting rights (a "variable interest entities" or "VIE"), and how to determine when and which business enterprise should consolidate a VIE. In addition, FIN 46 requires that both the primary beneficiary and all other enterprises with a significant variable interest in VIE make additional disclosures. The transitional disclosure requirements are effective for the interim or the annual period ending after December 31, 2003. Management is in the process of evaluating all of its mezzanine loans and preferred equity investments, which may be deemed variable interest entities under the provision of FIN 46. A definitive conclusion can not be reached until the evaluation has been completed.

Results of Operations

Three Months Ended September 30, 2003

The following table sets forth our results of operations for the three months ended September 30, 2003:

	Three Months Ended September 30, 2003
	(unaudited)
Revenue:	
Interest income	$ 4,664,115
Other income	6,375
Total revenue	$ 4,670,490
Expenses:	
Interest expense	721,854
Employee compensation and benefits	446,845
Stock based compensation	1,587,674
Selling and administrative	133,304
Management fee	293,734
Total expenses	3,183,411
Income before minority interest	1,487,079
Income allocated to minority interest	412,492
Net income	$ 1,074,587

Revenues

Interest income was $4.7 million. The average balance of the loan and investment portfolio was $243.8 million during the quarter. The average yield on these assets was 7.59%.

Expenses

Interest expense was $722,000. The average balance of debt financing was $81.0 million during the quarter. The average cost of these borrowings was 3.56%. Our average leverage for the quarter was 33%, resulting in our interest margin on a levered basis being 9.61%.

Employee compensation and benefits expense was $447,000, which represents salaries, benefits and incentive compensation for the ten employees employed by us during the quarter.

Stock-based compensation expense was $1.6 million. This expense represents the cost of restricted stock granted to certain of our employees, executive officers and directors and certain executive officers and employees of our manager. Of the total shares granted, two-thirds of the shares granted vested immediately and the remaining one-third will vest over three years. The amount of compensation expense recorded in the quarter represents the full expense of the vested shares and a ratable portion of the expense of the unvested shares.

Selling and administrative expense was $133,000. This amount is comprised primarily of professional fees, including legal and accounting services.

Management fees were $294,000. This amount represents the base management fee as provided for in the management agreement with our manager. The management agreement also provides for incentive compensation fees; however, the requirements for incentive compensation were not satisfied and no incentive compensation was recorded in the period.

Income allocated to minority interest was $412,000. This amount represents the portion of our income allocated to our manager, which owns a 28% limited partnership interest in our operating partnership and is allocated 28% of our income.

Liquidity and Capital Resources

Sources of Liquidity

Liquidity is a measurement of the ability to meet potential cash requirements, including ongoing commitments to repay borrowings, fund and maintain loans and investments and other general business needs. Our primary sources of funds for liquidity consist of funds raised from our private equity offering in July 2003, borrowings under credit agreements, net cash provided by operating activities, repayments of outstanding loans and investments and the issuance of common, convertible and/or preferred equity securities.

To maintain our status as a REIT under the Internal Revenue Code, we must distribute annually at least 90% of our taxable income. These distribution requirements limit our ability to retain earnings and thereby replenish or increase capital for operations. However, we believe that our significant capital resources and access to financing will provide us with financial flexibility and market responsiveness at levels sufficient to meet current and anticipated capital requirements, including expected new lending and investment opportunities.

Gross proceeds from the original offering on July 1, 2003 totaled $120.2 million, which combined with ACM's equity contribution of $43.9 million, resulted in total contributed capital of $164.1 million. We paid or accrued offering expenses of $9.6 million, resulting in stockholders equity and minority interest of $154.5 million at our inception.

We also maintain liquidity through one warehouse credit facility and two master repurchase agreements with three different financial institutions. Prior to July 1, 2003, ACM had similar financing facilities with these financial institutions.

We have a $250.0 million warehouse credit agreement with a financial institution, dated as of July 1, 2003, with a term of three years. In the event this facility is not renewed, we have nine months to repay all outstanding advances. This warehouse credit facility includes a profit sharing agreement, whereby the institution shares in the net interest spread of the assets financed. The profit sharing component represents the percentage of the net profits earned over the life of a loan that are payable to the lender upon repayment of the underlying investment. Net profits are based on interest income, interest expense and deferred interest payable at repayment of an investment. On September 30, 2003 the outstanding balance under this facility was $28.4 million.

We have a $100.0 million master repurchase agreement with a second financial institution, dated as of November 18, 2002, with a one-year term, renewable annually. This repurchase agreement was assigned from ACM to us on July 1, 2003. In the event this facility is not renewed, we have twelve months to repay all outstanding advances. On September 30, 2003, the outstanding balance under this facility was $63.5 million.

We have a $50.0 million master repurchase agreement with a third financial institution, dated as of July 1, 2003 with a term of three years. This facility has not yet been utilized.

The warehouse credit agreement and the two master repurchase agreements require that we pay down borrowings under these facilities pro-rata as principal payments on our loans and investments are received. In addition, if upon maturity of a loan or investment we decide to grant the borrower an extension option, the financial institutions have the option to extend the borrowings or request payment in full on the outstanding borrowings of the loan or investment extended. The financial institutions also have the right to request immediate payment of any outstanding borrowings on any loan or investment that is at least 60 days delinquent.

We believe our existing sources of funds will be adequate for purposes of meeting our short-term liquidity within one year and long-term liquidity needs. Our loans and investments, the majority of which have been contributed to us, are financed under existing credit facilities and their credit status is continuously monitored; therefore, these

loans and investments are expected to generate a generally stable return. Our ability to meet our long-term liquidity and capital resource requirements is subject to obtaining additional debt and equity financing. If we are unable to renew our sources of financing on substantially similar terms or at all it would have an adverse effect on our business and results of operations. Any decision by our lenders and investors to enter into such transactions with us will depend upon a number of factors, such as our financial performance, compliance with the terms of our existing credit arrangements, industry or market trends, the general availability of and rates applicable to financing transactions, such lenders' and investors' resources and policies concerning the terms under which they make such capital commitments and the relative attractiveness of alternative investment or lending opportunities.

The maximum borrowing capacities, advance rates and other principal terms of our credit facilities are listed below:

	Warehouse Facility	Repurchase Agreement	Repurchase Agreement
Total Facility Amount	$250,000,000	$100,000,000	$50,000,000
Sublimits based on Investment Type			
Bridge Loan Sublimit Amount	$125,000,000	$ 75,000,000	$50,000,000
Maximum Advance Rate (1)	85%(2)	80%	80%
Pricing over LIBOR	2.00%	2.00%	1.25%
Profit Share (3)	20.0%		
Mezzanine Loans/Preferred Equity Sublimit Amount	$175,000,000	$ 25,000,000	$50,000,000
Maximum Advance Rate (1)	80%(4)	65%	75%
Pricing over LIBOR	2.75%	2.75%	2.50%
Profit Share (3)	20.0%		
Note Acquisitions Sublimit Amount	$125,000,000		
Maximum Advance Rate (4)	80%(5)		
Pricing over LIBOR	2.50%		
Property Acquisitions			
Total Line	$125,000,000		
Maximum Advance Rate	80%		
Pricing over LIBOR	2.50%		

(1) Advance rates for certain investments funded under the credit facilities are negotiated on an individual basis and may differ from the maximum advance rate listed.

(2) Maximum loan amount advanced per bridge loan equal to $20.0 million.

(3) Certain investments included in contribution of the initial assets are financed under prior profit sharing agreements between the financial institution and ACM with profit sharing percentages ranging from 20% to 45% of net interest income of the loans and investments financed.

(4) Maximum loan amount advanced per mezzanine loan equal to $20.0 million.

(5) Maximum loan amount advanced per acquisition equal to $20.0 million.

In addition to these credit facilities, we have a participation agreement with a financial institution to finance a portion of a $16.4 million apartment bridge loan. The interest payable on the participation agreement is LIBOR plus 3.00% with a floor of 4.75% and the outstanding balance as of September 30, 2003 was approximately $12.9 million.

Contractual Commitments

Pursuant to our management agreement with ACM, we pay ACM an annual base management fee, payable monthly in cash as a percentage of ARLP's equity and equal to 0.75% per annum of the equity up to $400 million, 0.625% per annum of the equity from $400 million to $800 million and 0.5% per annum of the equity in excess of $800 million. For purposes of calculating the base management fee, equity equals the month end value computed in accordance with generally accepted accounting principles of (1) total partners' equity in ARLP, plus or minus (2) any unrealized gains, losses or other items that do not affect realized net income.

We also pay ACM incentive compensation each fiscal quarter, calculated as (1) 25% of the amount by which (a) ARLP's funds from operations per operating partnership unit, adjusted for certain gains and losses, exceeds (b) the product of (x) 9.5% per annum or the 10 year Treasury Rate plus 3.5%, whichever is greater, and (y) the weighted average of book value of the net assets contributed by ACM to ARLP per operating partnership unit, the offering price per share of our common equity in the original offering and subsequent offerings and the issue price per operating partnership unit for subsequent contributions to ARLP, multiplied by (2) the weighted average of ARLP's outstanding operating partnership units. At least 25% of this incentive compensation is paid to ACM in shares of our common stock, subject to ownership limitations in our charter. We have also agreed to share with ACM a portion of the origination fees that we receive on loans we originate with ACM.

Related Party Transactions

Related Party Loans

ACM has a 50% non-controlling interest in a joint venture, which was formed to acquire, develop and/or sell real estate assets. At September 30, 2003, ACM's investments in this joint venture were approximately $2.6 million. At September 30, 2003, we had a $16.0 million bridge loan outstanding to the joint venture, which is collateralized by a first lien position on a commercial real estate property. There is a limited guarantee on the loan of 50% by our chief executive officer and 50% by the key principal of the joint venture. The loan requires monthly interest payments based on LIBOR and matures in October 2004. We have agreed to provide the borrower with additional mezzanine financing in the amount of up to $8.0 million. The mezzanine financing requires interest payments based on LIBOR and matures in May 2006. The loan will be funded in two equal installments of $4.0 million. The funding will be drawn down as construction progresses. The interest on the first component, which was funded by ACM in June 2003 and purchased by us in July 2003, will be earned on the full $4.0 million, while the interest on the second component, which has yet to be funded by us, will be earned as the $4.0 million is drawn down. This additional financing is secured by a second mortgage lien on the property. Interest income recorded from these loans was approximately $240,000, for the period ended September 30, 2003.

Our $16.0 million bridge loan to the joint venture was contributed by ACM as one of the structured finance assets contributed to the Company on July 1, 2003. At the time of contribution, ACM also agreed to provide a limited guarantee of the loan's principal amount based any profits realized on its retained 50% interest in the joint venture with the borrower and ACM's participating interests in borrowers under three other contributed structured finance assets.

In June 2003, ACM invested approximately $818,000 in exchange for a 12.5% non-controlling interest in a joint venture, which was formed to acquire, develop and/or sell real estate assets. This investment was purchased by us from ACM in August 2003. In addition, as of September 30, 2003, we had two mezzanine loans, secured by a second lien position in the ownership interests of the borrower and the property, to this joint venture totaling $6.0 million outstanding. The loans require monthly interest payments based on LIBOR and mature in May 2006. Interest income recorded from these loans was approximately $97,000 for the period ended September 30, 2003.

At the time of ACM's origination of three of the structured finance assets that it contributed to us on July 1, 2003, each of the property owners related to these contributed assets granted ACM participating interests that share in a percentage of the cash flows of the underlying properties. Upon contribution of the structured finance assets, ACM retained these participating interests and its 50% non-controlling interest in the joint venture to which it had made the $16.0 million bridge loan. ACM agreed that if any portion of the outstanding amount of any of these four contributed assets is not paid at the its maturity or repurchase date, ACM will pay us, subject to the limitation

described below, the portion of the unpaid amount of the contributed asset up to the total amount then received by ACM due to the realization of any profits on its retained interests associated with any other of the four contributed assets. However, ACM will no longer be obligated to make such payments to us when the remaining accumulated principal amount of the four contributed assets, collectively, falls below $5 million and none of the four contributed assets is in default.

Related Party Formation Transactions

ACM contributed the majority of its structured finance portfolio to our operating partnership pursuant to a contribution agreement. The contribution agreement contains representations and warranties concerning the ownership and terms of the structured finance assets it contributed and other customary matters. ACM has agreed to indemnify us and our operating partnership against breaches of those representations and warranties. In connection with its asset contribution ACM has also agreed to guaranty a portion of the principal amount of four contributed assets in which ACM has retained a participating interest or a joint venture interest in the borrower.

In exchange for ACM's asset contribution, we issued to ACM approximately 3.1 million operating partnership units, each of which ACM may redeem for one share of our common stock or an equivalent amount in cash, at our election, and approximately 629,000 warrants, each of which entitles ACM to purchase one additional operating partnership unit. The operating partnership units and warrants for additional operating partnership units issued to ACM were valued at approximately $43.9 million at July 1, 2003, based on the price offered to investors in our units in the original offering, adjusted for the initial purchaser's discount. We also granted ACM certain demand and other registration rights with respect to the shares of common stock issuable upon redemption of its operating partnership units.

Each of the approximately 3.1 million operating partnership units received by ACM is paired with one share of our special voting preferred stock that entitles the holder to one vote on all matters submitted to a vote of our stockholders. As operating partnership units are redeemed for shares of our common stock or cash an equivalent number of shares of special voting preferred stock will be redeemed and cancelled. As a result of ACM's asset contribution and the related formation transactions, ACM owns approximately a 28% limited partnership interest in our operating partnership and the remaining 72% interest in our operating partnership is owned by us. In addition, ACM has approximately 28% of the voting power of our capital stock (without giving effect to the exercise of ACM's warrants for additional operating partnership units).

We and our operating partnership have entered into a management agreement with ACM pursuant to which ACM has agreed to provide us with structured finance investment opportunities and loan servicing as well as other services necessary to operate our business. As discussed above in "— Contractual Commitments," we have agreed to pay our manager an annual base management fee and incentive compensation each fiscal quarter and share with ACM a portion of the origination fees that we receive on loans we originate with ACM pursuant to this agreement.

Under the terms of the management agreement, ACM is also required to provide us with a right of first refusal with respect to all structured finance identified by ACM or its affiliates. We have agreed not to pursue, and to allow ACM to pursue, any real estate opportunities other than structured finance transactions. In addition, Mr. Kaufman has entered into a non-competition agreement with us pursuant to which he has agreed not to pursue structured finance investment opportunities, except as approved by our board of directors.

We and our operating partnership have also entered into a services agreement with ACM pursuant to which our asset management group provides asset management services to ACM. In the event the services provided by our asset management group pursuant to the agreement exceed by more than 15% per quarter the level of activity anticipated by our board of directors, we will negotiate in good faith with our manager an adjustment to our manager's base management fee under the management agreement, to reflect the scope of the services, the quantity of serviced assets or the time required to be devoted to the services by our asset management group.

Recent Developments

We made three new loans and investments, totalling $41.8 million, during October 2003. As discussed under "Arbor Realty Trust, Inc. — Our Assets", we made a $4.8 million bridge loan in connection with a refinancing of the $2.5 million 80 Evergreen million mezzanine loan and a $27 million 24-month bridge loan in connection with the refinancing of the $4.0 million Carlton Arms Apartments mezzanine loan. In addition, we originated a $10.0 million equity investment in an entity that is purchasing a commercial office building in Manhattan. This investment bears a 12% return.

During October, five of our investments contributed by ACM, totaling $33.9 million, were repaid in full, including all current and deferred interest: the Holiday Inn Convention Center bridge loan ($4.7 million), the Park Place Apartments preferred equity investment ($3.9 million), the Vermillion Apartments bridge loan ($18.8 million), Carlton Arms Apartments mezzanine loan ($4.0 million) and the Devonshire Apartments preferred equity investment ($2.5 million). The assets contributed by ACM generally did not include prepayment protection which may result in prepayments on these loans occurring prior to their scheduled maturity date. We intend to structure loans that we originate in the future to provide for prepayment protection. If successful, we will be able to retain assets in our portfolio on a longer term basis.

Quantitative and Qualitative Disclosures about Market Risk

Market risk is the exposure to loss resulting from changes in interest rates, foreign currency exchange rates, commodity prices, equity prices and real estate values. The primary market risks that we are exposed to are real estate risk and interest rate risk.

Real Estate Risk

Commercial mortgage assets may be viewed as exposing an investor to greater risk of loss that residential mortgage assets since such assets are typically secured by larger loans to fewer obligors than residential mortgage assets. Multi-family and commercial property values and net operating income derived from such properties are subject to volatility and may be affected adversely by a number of factors, including, but not limited to, national, regional and local economic conditions (which may be adversely affected by industry slowdowns and other factors), local real estate conditions (such as an oversupply of housing, retail, industrial, office or other commercial space); changes or continued weakness in specific industry segments; construction quality, age and design; demographic factors; retroactive changes to building or similar codes; and increases in operating expenses (such and energy costs). In the event net operating income decreases, a borrower may have difficulty repaying our loans, which could result in losses to us. In addition, decreases in property values reduce the value of the collateral and the potential proceeds available to a borrower to repay our loans, which could also cause us to suffer losses. Even when the net operating income is sufficient to cover the related property's debt service, there can be no assurance that this will continue to be the case in the future.

Interest Rate Risk

Interest rate risk is highly sensitive to many factors, including governmental monetary and tax policies, domestic and international economic and political considerations and other factors beyond our control.

Our operating results will depend in large part on differences between the income from our assets and our borrowing costs. Most of our assets and borrowings are variable-rate instruments, based on LIBOR. The objective of this strategy is to minimize the impact of interest rate changes on our net interest income. Many of our loans and borrowings are subject to various interest rate floors. As a result, the impact of a change in interest rates may be different on our interest income than it is on our interest expense. Based on the assets and liabilities as of September 30, 2003, and assuming the balances of these assets and liabilities remain unchanged for the subsequent months, a 1% increase in LIBOR would increase our annual net income and cash flows because the principal amount of assets that would be subject to an interest rate adjustment under this scenario exceeds the amount of liabilities that would subject to an interest rate adjustment. A 1% decrease in LIBOR would also increase our annual net income and cash flows because the principal amount of assets currently subject to interest rate floors (and, therefore, would not be subject to a downward interest rate adjustment) exceeds the amount of liabilities currently subject to interest rate floors. As the size of the portfolio increases and the percentage of borrowings as a percent of assets increases, a change in interest rates may have a negative impact on our net income.

In the event of a significant rising interest rate environment and/or economic downturn, defaults could increase and result in credit losses to us, which could adversely affect our liquidity and operating results. Further, such delinquencies or defaults could have an adverse effect on the spreads between interest-earning assets and interest-bearing liabilities.

MANAGEMENT'S DISCUSSION & ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS OF THE STRUCTURED FINANCE BUSINESS OF ARBOR COMMERCIAL MORTGAGE, LLC AND SUBSIDIARIES

You should read the following discussion in conjunction with the sections of this prospectus entitled "Risk Factors", "Forward-Looking Statements" and "Selected Consolidated Financial Information of the Structured Finance Business of Arbor Commercial Mortgage, LLC and Subsidiaries" and the historical consolidated financial statements of the structured finance business of ACM, including related notes, included elsewhere in this prospectus.

Overview and Basis of Presentation

We are a Maryland corporation that was formed in June 2003 to invest in real estate related bridge and mezzanine loans, preferred equity and, in limited cases, discounted mortgage notes and other real estate related assets. We conduct substantially all of our operations through our operating partnership, Arbor Realty Limited Partnership. We intend to elect to be treated as a REIT for federal income tax purposes.

On July 1, 2003 ACM contributed a portfolio of structured finance investments and related liabilities to our operating partnership. In addition, certain employees of ACM related to its structured finance business became our employees. These assets, liabilities and employees represented a substantial portion of ACM's structured finance business, which historically invested in real estate related bridge and mezzanine loans, preferred equity and other real estate related assets.

The structured finance business of ACM is not a separate legal entity and the assets and liabilities associated with ACM's structured finance business are components of a larger business. We obtained the information in the consolidated financial statements included elsewhere in this prospectus from ACM's consolidated historical accounting records.

The structured finance business of ACM never operated as a separate business segment or division of ACM, but as an integrated part of ACM's consolidated business. Accordingly, the statements of revenue and direct operating expenses do not include charges from ACM for corporate general and administrative expense because ACM considered such items to be corporate expenses and did not allocate them to individual business units. These expenses included costs for ACM's executive management, corporate facilities and overhead costs, corporate accounting and treasury functions, corporate legal matters and other similar costs.

The information in the statements of revenue and direct operating expenses include the revenue and direct operating expenses that relate to the structured finance business. Direct operating expenses include interest expense applicable to the funding costs of the structured finance business loans and investments, salaries and related fringe benefit costs, provision for loan losses and other expenses directly associated with revenue-generating activities. Direct operating expenses also include allocations of certain expenses, such as telephone, office equipment rental and maintenance, office supplies and marketing, which were directly associated with the structured finance business and were allocated based on headcount of the structured finance business in relation to the total headcount of ACM. All of these allocations are based on assumptions that management believes are reasonable under the circumstances.

The consolidated financial statements in this prospectus do not include a statement of cash flows because the structured finance business did not maintain a separate cash balance. Other than the debt required to fund the loans and investments of the structured finance business, operating activities of the structured finance business were funded by ACM.

Since the structured finance business never operated as a separate business division or segment of ACM, the consolidated financial statements included in this prospectus are not intended to be a complete presentation of the historical financial position, results of operations and cash flows of the structured finance business. These consolidated financial statements were prepared for inclusion in the registration statement of which this prospectus is part and do not purport to reflect the financial position or results of operations that would have resulted if the structured finance business had operated as a separate company. The historical consolidated financial information included in this prospectus is not likely to be indicative of our financial position, results of operations or cash flows

for any future period. See “Risk Factors — Our historical consolidated financial information is not likely to be indicative of our future performance or financial position as a separate company.”

Sources of Operating Revenues

We derive our operating revenues primarily through the interest and other income received from making real estate related bridge and mezzanine loans and preferred equity investments. We provide bridge loans secured by first lien mortgages on the property to borrowers who are typically seeking short term capital to be used in an acquisition of property. The bridge loans we make typically range in size from $1 million to $25 million and have terms of up to seven years. We provide real property owners with mezzanine loans that are secured by pledges of ownership interests in entities that directly or indirectly control the real property or second mortgages. These loans typically range in size from $2 million to $15 million and have terms of up to seven years. We also make preferred equity investments in entities that directly or indirectly own real property.

We may also derive operating revenue from the gain on sale of loans and real estate. We acquire (1) real estate for our own investment and, upon stabilization, disposition at an anticipated return and (2) real estate notes generally at a discount from lenders in situations where the borrower wishes to restructure and reposition its short term debt and the lender wishes to divest certain assets from its portfolio.

In addition, we derive operating revenue from income from equity affiliates relating to joint ventures that ACM’s structured finance business formed with equity partners to lend to, acquire, develop and/or sell real estate assets.

Significant Accounting Estimates and Critical Accounting Policies

Set forth below is a summary of the accounting policies that management believes are critical to the preparation of the consolidated financial statements included in this prospectus. Certain of the accounting policies used in the preparation of these consolidated financial statements are particularly important for an understanding of the financial position and results of operations presented in the historical consolidated financial statements included in this prospectus and require the application of significant judgment by management and, as a result, are subject to a degree of uncertainty.

Real Estate Owned

Real estate owned represents commercial real estate property that the structured finance business of ACM owns and operates. Such assets are not depreciated and are carried at the lower of cost or fair value less cost to sell. Management reviews its real estate assets for impairment whenever events or changes in circumstances indicate that the carrying amount of an asset may not be recoverable.

Loans and Investments

Loans held for investment are intended to be held to maturity and, accordingly, are carried at cost, net of unamortized loan origination costs and fees, unless such loan or investment is deemed to be impaired.

ACM’s structured finance business historically invested in preferred equity interests that allowed ACM to participate in a percentage of the underlying property’s cash flows from operations and proceeds from a sale or refinancing. At the inception of each such investment, management must determine whether such investment should be accounted for as a loan, joint venture or as real estate. To date, management has determined that all such investments are properly accounted for and reported as loans.

Specific valuation allowances are established for impaired loans based on the fair value of collateral on an individual loan basis. The fair value of the collateral is determined by an evaluation of operating cash flow from the property during the projected holding period, and estimated sales value computed by applying an expected capitalization rate to the stabilized net operating income of the specific property, less selling costs, discounted at market discount rates. If upon completion of the valuation, the fair value of the underlying collateral securing the

impaired loan is less than the net carrying value of the loan, an allowance is created with a corresponding charge to the provision for loan losses. The allowance for each loan is maintained at a level believed adequate by management to absorb probable losses.

Revenue Recognition

The revenue recognition policies for ACM's structured finance business are as follows:

Interest Income. Interest income is recognized on the accrual basis as it is earned. In most instances, the borrower pays an additional amount of interest at the time the loan is closed, an origination fee, and deferred interest upon maturity of the loan. This additional income as well as any direct loan origination costs incurred, is deferred and recognized over the life of the related loan as a yield adjustment. Income recognition is suspended for loans when in the opinion of management a full recovery of income and principal becomes doubtful. Income recognition is resumed when the loan becomes contractually current and performance is demonstrated to be resumed Several of the loans provide for accrual of interest at specified rates, which differ from current payment terms. Interest is recognized on such loans at the accrual rate subject to management's determination that accrued interest and outstanding principal are ultimately collectible, based on the underlying collateral and operations of the borrower. If management cannot make this determination regarding collectibility, interest income is recognized only upon actual receipt.

Results of Operations

Six Months Ended June 30, 2003 and 2002

Revenue. The following table sets forth the components of revenue:

	Six Months Ended June 30,		Increase/ (Decrease)	
	2003	2002	Amount	Percent
Interest income	$ 7,688,465	$ 7,482,750	$ 205,715	3%
Gain on sale of loans and real estate	1,024,268	7,006,432	(5,982,164)	(85)%
Income from equity affiliates	—	601,100	(601,100)	—
Other income	1,552,414	553,625	998,789	180%
Total Revenue	$10,265,147	$15,643,907	$(5,378,760)	(34)%

Interest income increased $206,000, or 3%, to $7.7 million for the six months ended June 30, 2003 from $7.5 million for the six months ended June 30, 2002. This increase was primarily due to a 21% increase in the weighted average balance of loans and investment partially offset by a 15% decrease in the weighted average effective interest rate of loans and investments primarily due to a decline in market interest rates. Most of our loans and investments are variable rate instruments based on LIBOR. The negative impact to interest income as a result of the decrease in market interest rates was partially offset by interest rate floors that were in effect on many of our loans and investments.

Gain on sale of loans and real estate decreased $6.0 million, or 85%, to $1.0 million for the six months ended June 30, 2003 from $7.0 million for the six months ended June 30, 2002. This decrease was primarily attributable to a $6.8 million gain on the sale of a joint venture interest in March 2002 partially offset by a $900,000 gain on the partial liquidation of a joint venture interest in 2003.

Income from equity affiliates for the six months ended June 30, 2002 consist of net income from a joint venture interest recognized prior to the sale of that joint venture interest in March 2002.

Other income increased $1.0 million, or 180%, to $1.6 million for the six months ended June 30, 2003 from $554,000 for the six months ended June 30, 2002. This increase was primarily attributable to (a) the partial satisfaction of an impaired loan for an amount $350,000 in excess of the loan's carrying value resulting in the

recognition of other income for this amount (b) increased funds received on paid off loans of $337,000 and (c) increased accelerated amortization of revenue of $390,000 on loans with early payoffs.

Expenses. The following table sets forth the components of direct operating expenses:

	Six Months Ended June 30,		Increase/ (Decrease)	
	2003	2002	Amount	Percent
Interest expense	$3,468,275	$3,370,777	$ 97,498	3%
Employee compensation and benefits	1,751,147	1,410,272	340,875	24%
Selling and administrative	458,266	368,253	90,013	24%
Provision for loan losses	60,000	3,195,000	(3,135,000)	(98%)
Total direct operating expenses	$5,737,688	$8,344,302	$(2,606,614)	(31)%

Interest expense increased $100,000, or 3%, to $3.5 million for the six months ended June 30, 2003 from $3.4 million for the six months ended June 30, 2002. This increase is primarily attributable to a 26% increase in the weighted average borrowings partially offset by a 19% decrease in the weighted average effective financing rate primarily due to a decline in market interest rates.

Employee compensation and benefits increased $341,000, or 24%, to $1.8 million for the six months ended June 30, 2003 from $1.4 million for the six months ended June 30, 2002. This increase reflects increased staffing levels associated with the increased loan and investments opportunities.

Selling and administrative expenses increased $90,000, or 24%, to $458,000 for the six months ended June 30, 2003 from $368,000 for the six months ended June 30, 2002. This increase was primarily attributable to operating expenses incurred in 2003 for a real estate owned asset, and increased marketing expenses associated with the growth of the lending and investment activities.

Provision for loan losses decreased $3.1 million, or 98%, to $60,000 for the six months ended June 30, 2003 from $3.2 million for the six months ended June 30, 2002. This decrease was directly attributable to a $3.1 million provision for loan losses recorded in 2002 prior to this loan being foreclosed and reclassified to real estate owned. This provision was recorded to reflect this asset at its estimated fair value.

Nine Months Ended September 30, 2002

Revenues. The following table sets forth the components of revenue:

	Nine Months Ended September 30, 2002
Interest income	$10,798,414
Gain on sale of loans and real estate	7,006,432
Income from equity affiliates	632,350
Other income	572,161
Total Revenue	$19,009,357

Interest income was $10.8 million. The average balance of the loan and investment portfolio was $174.7 million during the period. The average yield on these assets was 8.24%.

Gain on sale of loans and real estate was $7.0 million. This amount consists primarily of a $6.8 million gain on the sale of a joint venture interest in March 2002.

Income from equity affiliates was $632,000. This amount consists primarily of net income from a joint venture interest recognized prior to the sale of that joint venture interest in March 2002.

Other income was $572,000. This amount represents funds received on loans and investments which generate additional payments to us based on the borrower's operating cash flow.

Expenses. The following table sets forth the components of direct operating expenses:

	Nine Months Ended September 30, 2002
Interest expense	$ 4,832,260
Employee compensation and benefits	2,105,445
Selling and administrative	582,850
Provision for loan losses	3,255,000
Total direct operating expenses	$10,775,555

Interest expense was $4.8 million. The average balance of debt financing was $118.9 million during the quarter. The average cost of these borrowings was 5.42%.

Employee compensation and benefits expense was $2.1 million, which represents salaries, benefits and incentive compensation for all employees who work directly in ACM's structured finance business.

Selling and administrative expense was $583,000. This amount is comprised primarily of professional fees directly associated with ACM structured finance business, operating expenses incurred for a real estate owned assets, and marketing expenses incurred directly for ACM's structured finance business.

The provision for loan losses was $3.3 million. Of this amount $3.1 million was directly attributable to a specific loan at was being foreclosed upon and reclassified to real estate owned. This provision was recorded to reflect this asset at its estimated fair value. The remaining provision of $200,000 was established to properly reflect the book value of an impaired loan.

Years Ended December 31, 2002 and 2001

Revenue. The following table sets forth the components of revenue:

	Year Ended December 31,		Increase/ (Decrease)	
	2002	2001	Amount	Percent
Interest income	$14,532,504	$14,667,916	$ (135,412)	(1)%
Gain on sale of loans and real estate	7,470,999	3,226,648	4,244,351	132%
Income from equity affiliates	632,350	1,403,014	(770,664)	(55)%
Other income	1,090,106	1,668,215	(578,109)	(35)%
Total Revenue	$23,725,959	$20,965,793	$2,760,166	13%

Interest income decreased $135,000, or 1%, to $14.5 million for 2002 from $14.7 million for 2001. This decrease was primarily due to a 16% decrease in the weighted average effective interest rate of loans and investments primarily due to a decline in market interest rates partially offset by a 17% increase in the weighted average balance of loans and investment. Most of our loans and investments are variable rates instruments based on LIBOR. The negative impact to interest income as a result of the decrease in market interest rates was partially offset by interest rate floors that were in effect on many of our loans and investments.

Gain on sale of loans and real estate increased $4.2 million, or 132%, to $7.5 million for 2002 from $3.2 million for 2001. This increase was primarily attributable to a $6.8 million gain on the sale of a joint venture interest

in March 2002 partially offset by a $2.2 million gain from the sale of property from a joint venture interest and a $276,000 decrease in income from the sale of foreclosed loans.

Income from equity affiliates decreased $770,000, or 55%, to $632,000 for 2002 from $1.4 million for 2001. This decrease was primarily attributable to a $868,000 decrease in net income from joint venture interests due to dissolutions of joint ventures in 2001 and 2002, partially offset by a $97,000 increase in net income from other joint venture interest.

Other income decreased $578,000, or 35%, to $1.1 million for 2002 from $1.7 million for 2001. This decrease was primarily attributable to decreased extension fees earned of $215,000 and decreased funds received on paid off loans of $361,000.

Expenses. The following table sets forth the components of direct operating expenses:

	Year Ended December 31,		Increase/ (Decrease)	
	2002	2001	Amount	Percent
Interest expense	$ 6,586,640	$ 7,029,374	$ (442,734)	(6)%
Employee compensation and benefits	2,827,191	2,888,603	(61,412)	(2)%
Selling and administrative	910,924	839,823	71,101	8%
Provision for loan losses	3,315,000	240,000	3,075,000	1,281%
Total direct operating expenses	$13,639,755	$10,997,800	$2,641,955	24%

Interest expense decreased $443,000, or 6%, to $6.6 million for 2002 from $7.0 million for 2001. This decrease is primarily attributable to a 20% decrease in the weighted average effective financing rate due to a decline in market interest rates partially offset by a 17% increase in the weighted average borrowings.

Employee compensation and benefits remained relatively stable from 2001 to 2002.

Selling and administrative expenses increased $71,000, or 8%, to $911,000 for 2002 from $840,000 for 2001. This increase was primarily attributable to increased legal expenses associated with the asset management and restructuring of our loans and investments portfolio.

Provision for loan losses increased $3.1 million, or 1,281%, to $3.3 million for 2002 from $240,000 for 2001. This increase was directly attributable to a $3.1 million provision for possible loan losses recorded in 2002 prior to this loan being foreclosed on and reclassified as real estate owned. This provision was recorded to reflect this asset at its estimated fair value.

Years Ended December 31, 2001 and 2000

Revenue. The following table sets forth the components of revenue:

	Year Ended December 31,		Increase/ (Decrease)	
	2001	2000	Amount	Percent
Interest income	$14,667,916	$10,707,551	$ 3,960,365	37%
Gain on sale of loans and real estate	3,226,648	1,880,825	1,345,823	72%
Income from equity affiliates	1,403,014	5,028,835	(3,625,821)	(72)%
Other income	1,668,215	652,970	1,015,245	155%
Total Revenue	$20,965,793	$18,270,181	$ 2,695,612	15%

Interest income increased $4.0 million, or 37%, to $14.7 million for 2001 from $10.7 million for 2000. This increase was primarily due to a 81% increase in the weighted average balance of loans and investment partially offset by a 24% decrease in the weighted average effective interest rate of loans and investments primarily due to a decline in market interest rates.

Gain on sale of loans and real estate increased $1.3 million, or 72%, to $3.2 million for 2001 from $1.9 million for 2000. This increase was primarily attributable to a $2.2 million gain from the sale of property from a joint venture interest partially offset by reduced gains on sales of foreclosed loans of $800,000.

Income from equity affiliates decreased $3.6 million, or 72%, to $1.4 million for 2001 from $5.0 million for 2000. This decrease was due to (a) a $3.3 million decrease in net income from a joint venture interest due to the dissolution of the joint venture interest in 2001 and (b) a $353,000 decrease in net income from other joint venture interest.

Other income increased $1.0 million, or 155%, to $1.7 million for 2001 from $653,000 for 2000. This increase was primarily attributable to increased funds received on paid off loans of $900,000.

Expenses. The following table sets forth the components of direct operating expenses:

	Year Ended December 31,		Increase/ (Decrease)	
	2001	2000	Amount	Percent
Interest expense	$ 7,029,374	$5,518,463	$1,510,911	27%
Employee compensation and benefits	2,888,603	3,026,324	(137,721)	(5)%
Selling and administrative	839,823	442,487	397,336	90%
Provision for loan losses	240,000	240,000	—	—%
Total direct operating expenses	$10,997,800	$9,227,274	$1,770,526	19%

Interest expense increased $1.5 million, or 27%, to $7.0 million for 2001 from $5.5 million for 2000. This increase was primarily attributable to a 73% increase in the weighted average borrowings partially offset by a 26% decrease in the weighted average effective financing rate primarily due to a decline in market interest rates.

Employee compensation and benefits decreased $138,000, or 5%, to $2.9 million for 2001 from $3.0 million for 2000. This decrease was primarily attributable to the streamlining of certain levels of management of ACM's structured finance business.

Selling and administrative expenses increased $397,000, or 90%, to $840,000 in 2001 from $442,000 for 2000. This increase was primarily attributable to increased legal expenses associated with the asset management and restructuring of our loans and investments portfolio.

Provision for loan losses was stable from 2000 to 2001.

Pro Forma Effect of ACM's Asset Contribution on Results of Operations

We were formed in June 2003 to operate as a real estate investment trust and to expand the structured finance business of ACM. On July 1, 2003, we completed a private placement of our units, each consisting of five shares of our common stock and one warrant to purchase one share of our common stock. Gross proceeds from the private financing totaled $120.2 million. In exchange for a commensurate equity ownership in our operating subsidiary, ACM contributed $213.1 million of structured finance assets subject to $169.2 million of borrowings supported by $43.9 million of equity. These assets and liabilities were contributed at book value, which approximates fair value, and represent 88% of the assets and 98% of the liabilities of ACM's structured finance business as of June 30, 2003. In addition, certain employees of ACM were transferred to us.

We are externally managed and advised by ACM and pay ACM a management fee in accordance with the terms of the management agreement. ACM also sources originations, provides underwriting services and services all structured finance assets on our behalf. As a result, the operating expenses as presented in the historical consolidated financial statements of ACM's structured finance business would have been affected had we been formed at an earlier time. Employee compensation and benefits expense would have decreased by $895,811 and $1,518,890 for the six months ended June 30, 2003 and year ended December 31, 2002, respectively, because these costs would have been borne by ACM under terms of the management agreement. Similarly, selling and

administrative expense would have decreased by $65,752 and $127,753 for the six months ended June 30, 2003 and year ended December 31, 2002, respectively.

In accordance with the management agreement, we will pay ACM a management fee, composed of a base management fee and incentive compensation. The base management fee is 0.75% per annum of the first $400 million of equity. The incentive compensation is equal to 25% of the amount that our funds from operations, adjusted for certain gains and losses, divided by contributed capital, exceeds 9.5% per annum or the 10-year Treasury Rate plus 3.5%, whichever is greater.

This pro forma information does not reflect the results of the private financing. However, gross proceeds from the private financing totaled $120.2 million, which combined with ACM's equity contribution of $43.9 million, resulted in total contributed capital of $164.1 million. Offering expenses of $9.6 million were paid by us, resulting in stockholders equity and minority interest of $154.5 million at our inception.

Liquidity and Capital Resources

Liquidity is a measurement of the ability to meet potential cash requirements, including ongoing commitments to repay borrowings, fund and maintain loans and investments and other general business needs. On July 1, 2003, ACM contributed a portfolio of structured finance investments and related liabilities to our operating partnership. In addition, certain employees of ACM became our employees. These assets, liabilities and employees represented a substantial portion of the structured finance business of ACM.

On July 1, 2003 we completed the original offering, resulting in gross proceeds of $120.2 million. Gross proceeds from the original offering combined with the concurrent equity contribution by ACM totaled approximately $164.1 in equity capital.

Subsequent to and as a result of the original offering, substantially all of the operations of the structured finance business of ACM have been conducted by us. Therefore, a description of the liquidity and capital resources of the structured finance business of ACM is not presented. A description of our liquidity and capital resources is presented in the section of this prospectus entitled "Management's Discussion & Analysis of Financial Condition and Results of Operations of Arbor Realty Trust, Inc. and Subsidiaries — Liquidity and Capital Resources."

Related Party Transactions

Related Party Loans

ACM has a 50% non-controlling interest in a joint venture, which was formed to acquire, develop and/or sell real estate assets. At June 30, 2003, December 31, 2002 and 2001, ACM's structured finance business' investments in this joint venture were approximately $2.6 million, $2.3 million and $1.8 million, respectively. This investment is accounted for under the equity method. At June 30, 2003 and December 31, 2002, ACM had a $16.0 million bridge loan outstanding to the joint venture, which is collateralized by a first lien position on a commercial real estate property. There is a limited guarantee on the loan of 50% by the chief executive officer of ACM and 50% by the key principal of the joint venture. The loan requires monthly interest payments based on LIBOR and matures in October 2004. ACM agreed to provide the borrower with additional mezzanine financing in the amount of up to $8.0 million. The mezzanine financing requires interest payments based on LIBOR and matures in May 2006. The loan will be funded in two equal installments of $4.0 million. The funding will be drawn down as construction progresses. The interest on the first component, which was funded by ACM in June 2003, will be earned on the full $4.0 million, while the interest on the second component, which has yet to be funded, will be earned as the $4.0 million is drawn down. This additional financing is secured by a second mortgage lien on the property. In addition, an interest and renovation reserve totaling $2.5 million is in place to cover both the bridge and mezzanine loans. Interest income recorded from these loans was approximately $217,000, $449,000 and $148,000 for the periods ended June 30, 2003, December 31, 2002 and 2001, respectively.

In June 2003, ACM invested approximately $818,000 in exchange for a 12.5% non-controlling interest in a joint venture, which was formed to acquire, develop and/or sell real estate assets. This investment is accounted for

under the equity method. In June, 2003, ACM made two mezzanine loans secured by a second lien position in the ownership interests of the borrower and the property to this joint venture totaling $6.0 million outstanding. The loans require monthly interest payments based on LIBOR and mature in May 2006. Interest income recorded from these loans was approximately $8,000 for the period ended June 30, 2003.

Related Party Formation Transactions

ACM contributed the majority of its structured finance portfolio to our operating partnership pursuant to a contribution agreement. The contribution agreement contains representations and warranties concerning the ownership and terms of the structured finance assets it contributed and other customary matters. ACM has agreed to indemnify us and our operating partnership against breaches of those representations and warranties.

In exchange for ACM's asset contribution, we issued to ACM approximately 3.1 million operating partnership units, each of which ACM may redeem for one share of our common stock or an equivalent amount in cash, at our election, and approximately 629,000 warrants, each of which entitles ACM to purchase one additional operating partnership unit. The operating partnership units and warrants for additional operating partnership units issued to ACM were valued at approximately $43.9 million at July 1, 2003, based on the price offered to investors in our units in the original offering, adjusted for the initial purchaser's discount. We have also granted ACM certain demand and other registration rights with respect to the shares of common stock issuable upon redemption of its operating partnership units.

Each of the approximately 3.1 million operating partnership units received by ACM is paired with one share of our special voting preferred stock that entitles the holder to one vote on all matters submitted to a vote of our stockholders. As operating partnership units are redeemed for shares of our common stock or cash an equivalent number of shares of special voting preferred stock will be redeemed and cancelled. As a result of ACM's asset contribution and the related formation transactions, ACM owns approximately a 28% limited partnership interest in our operating partnership and the remaining 72% interest in our operating partnership is owned by us. In addition, ACM has approximately 28% of the voting power of our capital stock (without giving effect to the exercise of ACM's warrants for additional operating partnership units).

We and our operating partnership have entered into a management agreement with ACM pursuant to which ACM has agreed to provide us with structured finance investment opportunities and loan servicing as well as other services necessary to operate our business. ACM is also required to provide us with a right of first refusal with respect to all structured finance identified by ACM or its affiliates. We have agreed not to pursue, and to allow ACM to pursue, any real estate opportunities other than structured finance transactions. As discussed above in "— Contractual Commitments," we have agreed to pay our manager an annual base management fee and incentive compensation each fiscal quarter and share with ACM a portion of the origination fees that we receive on loans we originate with ACM pursuant to this agreement.

We and our operating partnership have also entered into a services agreement with ACM pursuant to which our asset management group provides asset management services to ACM. In the event the services provided by our asset management group pursuant to the agreement exceed by more than 15% per quarter the level of activity anticipated by our board of directors, we will negotiate in good faith with our manager an adjustment to our manager's base management fee under the management agreement, to reflect the scope of the services, the quantity of serviced assets or the time required to be devoted to the services by our asset management group.

Quantitative and Qualitative Disclosures about Market Risk

Since the consummation of the original offering and the related formation transactions, substantially all of the operations of the structured finance business of ACM have been conducted by us. Therefore, quantitative and qualitative disclosures about market risk relating to the structured finance business of ACM is not presented. A description of market risks relating to our business is presented in the section of this prospectus entitled "Management's Discussion & Analysis of Financial Condition and Results of Operations of Arbor Realty Trust, Inc. and Subsidiaries — Quantitative and Qualitative Disclosures about Market Risk"

ARBOR REALTY TRUST, INC.

We are a Maryland corporation that was formed in June 2003 to invest in real estate related bridge and mezzanine loans, preferred equity and, in limited cases, discounted mortgage notes and other real estate related assets. We conduct substantially all of our operations through our operating partnership. We will elect to be taxed as a REIT under the Internal Revenue Code and generally will not be subject to federal taxes on our income to the extent we distribute our income to our stockholders and maintain our qualification as a REIT.

On July 1, 2003, ACM contributed the majority of its structured finance portfolio to our operating partnership. These initial assets, consisting of 12 bridge loans, five mezzanine loans, five preferred equity investments and two other real estate related investments, were transferred at book value, which, at June 30, 2003, represented $213.1 million in assets financed by $169.2 million borrowed under ACM's credit facilities, giving effect to notes payable equal to the financing amount available for each contributed investment under ACM's credit facilities, and supported by $43.9 million in equity.

We are externally managed and advised by ACM. Our manager is a national commercial real estate finance company operating through 15 regional offices in the United States, specializing in debt and equity financing for multi-family and commercial real estate. We believe ACM's experience and reputation positions it to originate attractive investment opportunities for us. Our management agreement with ACM was developed to capitalize on synergies with ACM's origination infrastructure, existing business relationships and management expertise.

We believe the financing of multi-family and commercial real estate offers significant growth opportunities as the inflexibility of traditional lenders has created increased demand for customized financing solutions. Since its inception in 1996, ACM's structured finance group has originated over $1.2 billion in structured finance transactions for investment by ACM and certain joint venture partners. ACM has not realized any loss of principal on these investments, and, to date, approximately $1 billion of these investments have been fully realized. ACM has granted us a right of first refusal to pursue all structured finance investment opportunities identified by ACM. ACM will continue to provide and service multi-family and commercial mortgage loans under Fannie Mae, Federal Housing Administration and conduit commercial lending programs, which we believe will offer customer relationship synergies to our business.

We have a strong senior management team with significant industry experience. Mr. Ivan Kaufman, the chief executive officer of ACM, and Mr. Frederick Herbst, the chief financial officer of ACM, also serve as our chief executive officer and chief financial officer, respectively. Mr. Fred Weber, the head of the structured finance group at ACM since 1999, is our executive vice president of structured finance. Mr. Daniel M. Palmier, the head of ACM's asset management group since 1997, is our executive vice president of asset management, and the eight additional employees who comprised the asset management group of ACM have also joined us. In October 2003, we hired Mr. John C. Kovarik as our chief credit officer. Messrs. Kaufman, Weber, Palmier and Kovarik serve as members of our credit committee, which has the authority to decide whether we will invest in an individual loan or security originated by ACM.

We believe the asset management group's involvement in our credit underwriting process helps to mitigate investment risk after the closing of a transaction. The asset management group is integrated into the underwriting and structuring process for all transactions in order to enhance the credit quality of our originations before a transaction closes. After the closing of structured finance transactions, the asset management group's experience in managing complex restructurings, refinancings and asset dispositions is used to improve the credit quality and yield on managed investments.

In connection with ACM's contribution of the initial assets, ACM arranged for us to have substantially similar credit facilities as those used by ACM to finance these assets. In exchange for ACM's asset contribution, we issued to ACM approximately 3.1 million operating partnership units, each of which ACM may redeem for one share of our common stock or an equivalent amount in cash, at our election, and approximately 629,000 warrants, each of which entitles ACM to purchase one additional operating partnership unit. The operating partnership units and warrants for additional operating partnership units issued to ACM were valued at approximately $43.9 million at July 1, 2003, based on the price offered to investors in our units in the original offering, adjusted for the initial

purchaser's discount. Each of the approximately 3.1 million operating partnership units received by ACM is paired with one share of our special voting preferred stock that entitles the holder to one vote on all matters submitted to a vote of our stockholders. As operating partnership units are redeemed for shares of our common stock or cash an equivalent number of shares of special voting preferred stock will be redeemed and cancelled. See "Description of Stock — Special Voting Preferred Stock." As a result of ACM's asset contribution and the related formation transactions, ACM owns approximately a 28% limited partnership interest in our operating partnership and the remaining 72% interest in our operating partnership is owned by us. In addition, ACM has approximately 28% of the voting power of our capital stock (without giving effect to the exercise of ACM's warrants for additional operating partnership units).

Industry Overview

Multi-family and commercial real estate encompasses a wide spectrum of assets including multi-family, office, industrial, retail and hospitality properties. We believe there is strong growth potential in customized financing of multi-family and commercial real estate. Commercial mortgage banks have arranged a significant portion of the debt financing for commercial real estate. In the past decade, the commercial mortgage industry has experienced significant change, due in part to increasingly standardized underwriting requirements, more demanding borrowers and lenders and the growth of a market for securitized commercial real estate pools. Many existing lending firms lack the capital or financial flexibility to compete effectively in today's rapidly changing market and the commercial mortgage industry is moving toward greater consolidation. Banks and life insurance companies, which have traditionally been the primary source for commercial real estate financing, are increasingly constraining borrowers by their relatively inflexible underwriting standards, including lower loan to value ratios, thereby creating significant demand for bridge, mezzanine and other forms of innovative financing.

Our Business Strategy

We capitalize on this demand by investing in a diversified portfolio of structured finance assets in the multi-family and commercial real estate market. Our principal business objectives are to invest in bridge and mezzanine loans, preferred equity and other real estate related assets and actively manage this portfolio in order to generate cash available for distribution, facilitate capital appreciation and maximize total return to our stockholders. We believe we can achieve these objectives through the following business and growth strategies:

Provide Customized Financing. We provide financing customized to the needs of our borrowers. We target borrowers with reputations for enhancing value, but whose options may be limited by conventional bank financing and who may benefit from the sophisticated structured finance products we offer. Historically, ACM has attempted to provide customized loan structures and other financing alternatives to fit the characteristics and purpose of each individual borrower and its financing requirements and we employ a similar strategy.

Use ACM's Relationships with Existing Borrowers. We capitalize on ACM's reputation in the commercial real estate finance industry. ACM has relationships with over 125 distinct borrowers nationwide. Since ACM's originators offer ACM's senior mortgage loans as well as our structured finance products, we are able to benefit from ACM's existing customer base and use its senior lending business as a potential refinance vehicle for our structured finance assets.

Offer Broader Products and Expand Customer Base. We have the ability to offer a larger number of financing alternatives than ACM has been able to offer to its customers in the past. Our potential borrowers are able to choose from products offering longer maturities and larger principal amounts than ACM could previously offer.

Leverage Our Experience and the Experience of ACM. Our executive officers and employees, and those of ACM, have extensive experience originating and managing structured commercial real estate investments. Our senior management team has on average over 20 years experience in the financial services industry. Additionally, our executive officers have prior experience in managing and operating a public company, the predecessor company to ACM.

Manage and Maintain Credit Quality. A critical component of our success in the real estate finance sector is our ability to manage the real estate risk that is underwritten by our manager and us. We actively manage and maintain the credit quality of our portfolio by using the expertise of our asset management group, which has a proven track record of structuring and repositioning structured finance investments to improve the credit quality and yield on managed investments.

Focus on a Niche Market in Smaller Loan Balances. We focus on loans with principal amounts under $20 million, which many larger lending firms do not target. We can afford to invest the time and effort required to close loans with smaller principal amounts because of our relatively efficient cost structure.

Execute Transactions Rapidly. We act quickly and decisively on proposals, provide commitments and close transactions within a few weeks and sometimes days, if required. We believe that rapid execution attracts opportunities from both borrowers and other lenders that would not otherwise be available. We believe our ability to structure flexible terms and close loans in a timely manner gives us a competitive advantage over lending firms that also serve the market for loans with principal amounts under $20 million.

Our Investment Guidelines

We have adopted general guidelines for our investments and borrowings to the effect that:

- no investment will be made that would cause us to fail to qualify as a REIT;
- no investment will be made that would cause us to be regulated as an investment company under the Investment Company Act;
- no more than 25% of our equity, determined as of the date of such investment, will be invested in any single asset;
- our leverage will generally not exceed 80% of the value of our assets, in the aggregate; and
- we will not co-invest with our manager or any of its affiliates unless (i) our co-investment is otherwise in accordance with these guidelines and (ii) the terms of such co-investment are at least as favorable to us as to our manager or such affiliate (as applicable) making such co-investment.

Our manager is required to seek the approval of a majority of the independent members of our board of directors before we engage in a material transaction with another entity managed by our manager. These investment guidelines may be changed by our board of directors without the approval of our stockholders.

Our Investment Strategy

We actively pursue lending and investment opportunities with property owners and developers who need interim financing until permanent financing can be obtained. We will initially target transactions under $20 million where we believe we have competitive advantages, particularly our lower cost structure and in house capabilities. Our structured finance investments generally have maturities of two to five years, depending on type, have extension options when appropriate, and generally require a balloon payment of principal at maturity. Borrowers in the market for these types of loans include, but are not limited to, owners or developers seeking either to acquire or refurbish real estate or to pay down debt and reposition a property for permanent financing.

We target borrowers with reputations for enhancing value, but whose options are limited by conventional bank financing and can benefit from the sophisticated financing products we offer. Loan structures vary as they are customized to fit the characteristics and purpose of the financing. Our structured finance assets are underwritten in accordance with guidelines designed to evaluate the borrower and its ability to satisfy the repayment conditions of the loan, including an analysis of the various repayment strategies available to the investment. In certain instances, especially in our mezzanine and preferred equity investments, we may underwrite investments based on a stabilized value of the underlying property.

Our investment program emphasizes the following general categories of real estate related activities:

Bridge Financing. We offer bridge financing products to borrowers who are typically seeking short term capital to be used in an acquisition of property. The borrower has usually identified an undervalued asset that has been under managed or is located in a recovering market. From the borrower's perspective, shorter term bridge financing is advantageous because it allows time to improve the property value through repositioning the property without encumbering it with restrictive long term debt.

The bridge loans we make typically range in size from $1 million to $25 million and are secured by first lien mortgages on the property. The term of the loan typically is up to five years. Historically, ACM's spreads have ranged from 3.00% to 5.00% over 30-day LIBOR. Additional yield enhancements may include origination fees, deferred interest and participating interests, which are equity interests in the borrower that share in a percentage of the underlying cash flows of the property. Borrowers usually use the proceeds of a conventional mortgage to repay a bridge loan.

Mezzanine Financing. We offer mezzanine loans. Mezzanine loans are subordinate to a conventional first mortgage loan and senior to the borrower's equity in a transaction. We believe this product allows our clients to fund their projects in a more efficient and strategic manner than financing methods offered by conventional lenders. Our mezzanine financing may take the form of pledges of ownership interests in entities that directly or indirectly control the real property or subordinated loans secured by second mortgages. We may also require additional collateral such as personal guarantees, letters of credit and/or additional collateral unrelated to the property.

Our mezzanine loans typically range in size from $2 million to $15 million and have terms of up to seven years. Historically, ACM's spreads have ranged from 4.00% to 7.00% over 30-day LIBOR, occasionally with an interest rate floor. As in the case with our bridge loans, the yield on these investments may be enhanced by prepaid and deferred interest payments, yield look-backs and participating interests.

Preferred Equity Investments. We provide financing by making preferred equity investments in entities that directly or indirectly own real property. In cases where the terms of a first mortgage prohibit additional liens on the ownership entity, investments structured as preferred equity in the entity owning the property serve as viable financing substitutes. With preferred equity investments, we typically become a special limited partner or member in the ownership entity.

Real Property Acquisitions. We may purchase existing real estate for repositioning and/or renovation and then disposition at an anticipated significant return. From time to time, we may identify real estate investment opportunities. In these situations, we may act solely on our own behalf or in partnership with other investors. Typically, these transactions are analyzed with the expectation that we will have the ability to sell the property within a one to two year time period, achieving a significant return on invested capital. In connection with these transactions, speed of execution is often the most critical component to success. We may seek to finance a portion of the acquisition price through short term financing. Repayment of the short term financing will either come from the sale of the property or conventional permanent debt.

Note Acquisitions. We may acquire real estate notes from lenders in situations where the borrower wishes to restructure and reposition its short term debt and the lender wishes, for a variety of reasons (such as risk mitigation, portfolio diversification or other strategic reasons), to divest certain assets from its portfolio. These notes will generally be acquired at a discount. In such cases, we intend to use our management resources to resolve any dispute concerning the note or the property securing it and to identify and resolve any existing operational or any other problems at the property. We will then either restructure the debt obligation for immediate resale or sale at a later date or reposition it for permanent financing. In some instances, we may take title to the property underlying the real estate note.

We borrow against or leverage our investments to the extent consistent with our investment guidelines in order to increase the size of our portfolio and potential returns to our stockholders. We have substantially similar credit facilities as used by ACM to finance the initial assets. We are currently in negotiations with the providers of the credit facilities to provide similar credit facilities and to increase the amounts available under these credit facilities, but there can be no assurance that we will be able to obtain additional financing. We may also sell participating interests in our investments.

In order to meet the REIT qualification requirements, or to avert the imposition of a 100% tax that applies to certain gains derived by a REIT from dealer property or inventory, we may hold some of our assets through taxable subsidiary corporations. See “Federal Income Tax Considerations — Taxation of Arbor Realty.”

Our Assets

We own a diversified portfolio of structured finance investments consisting principally of bridge and mezzanine loans as well as preferred equity investments. As of September 30, 2003, the majority of our portfolio consisted of initial assets contributed by ACM that have not yet matured. Since the commencement of our operations in July 2003, we have originated structured finance investments and purchased additional loans and investments from ACM.

At September 30, we had 30 loans and investments in our portfolio, totaling $241 million. These loans and investments were for 23 multi-family properties, four hotels, two commercial properties and one co-op. There are no loans that are non-performing within the portfolio. We continue to actively manage every single loan in the portfolio and believe that our strict underwriting and active asset management enable us to maintain the credit quality of our portfolio.

Our yield for the first quarter of operations ended September 30, 2003 was 7.65% on average assets of $244 million. Our average cost of funds was 3.56% on average borrowings of $81 million. Our average leverage for the quarter was 33%, resulting in our interest margin on a levered basis being 9.61%. As we add more loans and investments to our portfolio, we anticipate our leverage ratio, levered return and level of earnings will increase over time. Our business plan contemplates an increase of our leverage ratio to 65% to 70% over time.

The table on the following page lists the principal terms of each of our investments and the financing relating to each individual investment, each as of September 30, 2003.

OUR ASSETS
As of September 30, 2003

Property Information			Investment Information					Funding Information				
Name	Type	Location	Balance	Origination Date	Maturity Date	Interest Pay Rate Index	Interest Rate(1)	Balance	Interest Rate Index	Interest Rate(2)	Profit Share(2)	Advance Rate
Bridge Loans:												
130 West 30th	Multi-family	New York, NY	$ 16,000,000	9/2001	5/2006	Libor + 2.25%	3.36%	$15,000,000	Libor + 1.50%	2.62%	Yes	93.75%
1025 5th Avenue	Co-op	New York, NY	1,100,000	10/2002	10/2003	18.00%	18.00%	—	—	—	No	—
Concord and Henry	Multi-family/office	Massachusetts	5,000,000	4/2003	4/2004	Libor + 5.50% Floor 7.00%	7.00%	4,000,000	Libor + 2.00%	3.12%	No	80.00%
Dylan Hotel	Hotel	New York, NY	14,000,000	3/2003	3/2005	Libor + 5.00% Floor 6.50%	6.50%	9,800,000	Libor + 2.00%	3.12%	No	70.00%
Less: Participation			(2,100,000)			50% of net spread less 0.50% asset mgmt fee	(3.00%)			(1.56%)		
							3.50%			1.56%		
Emerald Bay	Multi-family	Winter Park, FL	15,400,000	5/2003	12/2004	Libor + 3.50% Floor 5.50%	5.50%	12,946,300	Libor + 3.00% Floor 4.25%	4.25%	No	84.07%
Grand Plaza	Multi-family	Las Vegas, NV	25,232,102	11/2002	12/2004	Libor + 3.00% Floor 5.25%	5.25%	18,723,511	Libor + 2.00%	3.12%	No	74.21%
Holiday Inn-Deland	Hotel	Deland, FL	4,700,000	3/2000	4/2004	Libor + 6.65% Floor 12.50%	12.50%	—	Libor + 2.00%	—	Yes	—
Indiana Portfolio	Multi-family	Indiana	14,624,845	3/2003	3/2004	Libor + 4.25%	5.37%	500,000	Libor + 2.25%	3.37%	No	3.42%
Palmetto Villas Apts	Multi-family	Ontario, CA	9,130,000	5/2003	4/2005	Libor + 4.00% Floor 5.50%	5.50%	7,304,000	Libor + 2.00%	3.12%	No	80.00%
Partners Portfolio	Multi-family	Baltimore, MD	14,200,000	4/2003	4/2006	Libor + 3.50% Floor 5.00%	5.00%	—	Libor + 2.00%	—	Yes	—
Tropical Gardens	Multi-family	Lauderdale Lakes, FL	8,800,000	12/2002	12/2004	Libor + 3.50% Floor 5.50%	5.50%	7,040,000	Libor + 2.00%	3.12%	No	80.00%
Vermillion Apts	Multi-family	Miami Lakes, FL	18,850,000	9/2002	9/2004	Libor + 3.00% Floor 5.00%	5.00%	—	Libor + 2.00% Libor Floor 2.50%	—	No	—
Walbridge Terrace	Multi-family	San Francisco, CA	6,200,000	7/2003	7/2004	Libor + 4.500% Floor 6.00%	6.00%	—	Libor + 2.00%	—	No	—
Bridge Loans — Total			$151,136,947				5.38%	$75,313,811		3.01%		

(1) Interest rate excludes deferred interest component. See asset descriptions for terms.

(2) Interest rate does not include deferred interest component due to profit sharing arrangements pursuant to our warehouse facility. See "Management's Discussion & Analysis of Financial Condition and Results of Operations of Arbor Realty Trust, Inc. and Subsidiaries — Liquidity and Capital Resources" for a description of these profit sharing arrangements.

OUR ASSETS (continued)
As of September 30, 2003

Property Information			Investment Information					Funding Information				
Name	Type	Location	Balance	Origination Date	Maturity Date	Interest Pay Rate Index	Interest Rate(1)	Balance	Interest Rate Index	Interest Rate(2)	Profit Share(2)	Advance Rate
Mezzanine Loans:												
80 Evergreen Avenue	Commercial	Brooklyn, NY	$ 2,500,000	6/2003	5/2006	Pay Libor + 3.50% Floor Pay 5.00%	5.00%	—	—	—	No	—
130 West 30th Street	Condo	New York, NY	4,000,000	6/2003	5/2006	Libor + 7.00% Floor 10.00%	10.00%	—	Libor + 2.25% Floor 1.75%	—	Yes	—
333 E. 34th Street	Multi-family	New York, NY	10,000,000	1/2002	2/2004	Pay: Libor + 3.00% Floor Pay: 8.00%	8.00%	—	Libor + 4.00% Libor Floor 2.00%	—	Yes	—
930 Flushing Avenue	Commercial	Brooklyn, NY	3,500,000	6/2003	5/2006	Pay Libor + 3.50% Floor Pay 5.00%	5.00%	—	—	—	No	—
Carltons Arms	Multi-family	Tampa, FL	4,000,000	11/2001	12/2003	Libor + 6.75% Floor 12.00%	12.00%	—	Libor + 2.25%	—	Yes	—
The Crossings	Multi-family	Glassboro, NJ	2,000,000	6/2003	6/2006	Libor + 7.00% Floor 10.00%	10.00%	—	Libor + 3.00% Floor 2.00%	—	Yes	—
James Hotel	Hotel	Arizona	2,220,491	8/2003	7/2006	Libor + 7.00% Floor 9.00% Cap 10.00%	9.00%	—	—	—	No	—
Partners Portfolio	Multi-family	Baltimore, MD	4,725,569	4/2003	5/2006	Libor + 4.50% (Year 1); Libor + 6.50% (Year 2); Libor + 7.50% (Year 3) Libor Floor 2.00%	6.50%	—	Libor + 3.00% Floor 2.00%	—	Yes	—
Schron B	Multi-family	New Jersey	3,000,000	5/2003	4/2005	Libor + 5.25 Floor 6.75%%	6.75%	—	Libor + 4.00% Libor Floor 2.00%	—	No	—
SMC Portfolio	Multifamily	Baltimore, MD	11,520,000	9/2003	9/2005	Libor + 5.50% (Year 1); Libor + 6.50% (Year 2); Libor + 7.50% (Year 3) Libor Floor 2.00%	7.50%	—	Libor + 2.25% Floor 1.75%	—	Yes	—
Mezzanine Loans — Total			$47,466,060				7.91%	—				—

(1) Interest rate excludes deferred interest component. See asset descriptions for terms.

(2) Interest rate does not include deferred interest component due to profit sharing arrangements pursuant to our warehouse facility. See "Management's Discussion & Analysis of Financial Condition and Results of Operations of Arbor Realty Trust, Inc. and Subsidiaries — Liquidity and Capital Resources" for a description of these profit sharing arrangements.

OUR ASSETS (continued)

As of September 30, 2003

Property Information			Investment Information					Funding Information				
Name	Type	Location	Balance	Origination Date	Maturity Date	Interest Pay Rate Index	Interest Rate(1)	Balance	Interest Rate Index	Interest Rate(2)	Profit Share(2)	Advance Rate
Preferred Equity:												
CDS Portfolio	Multi-family	Texas	$ 4,991,001	12/1998	1/2004	Libor + 4.50% Floor 9.56%	9.56%	$ —	Libor + 2.75%	—	No	—
Devonshire Apts	Multi-family	Holyoke, MA	2,500,000	1/2002	1/2005	Libor + 4.50% Floor 10.00%	13.50%	—	Libor + 2.25%	—	Yes	—
Dutch Village	Multi-family	Baltimore, MD	7,074,431	6/2003	11/2006	Libor + 4.50% (Year 1); Libor + 6.50% (Year 2); Libor + 7.50% (Year 3) Libor Floor 2.00%	6.50%	—	Libor + 3.00% Libor Floor 2.00%	—	Yes	—
Park Place	Multi-family	Santa Ana, CA	3,860,000	1/2002	1/2005	Libor + 5.00% Floor 12.00%	12.00%	—	Libor + 2.25%	—	Yes	—
Schron A	Multi-family	New Jersey	19,300,000	5/2003	4/2005	Libor + 5.25% Floor 6.75%	6.75%	16,600,000	Libor + 2.75%	3.87%	No	86.01%
Villages at Gateway	Multi-family	Denver, CO	2,800,000	2/2002	3/2004	Libor + 6.00% Floor 10.00%	10.00%	—	Libor + 2.25%	—	Yes	—
Preferred Equity — Total			$ 40,525,432				8.19%	$16,600,000		3.87%		
Other Investments												
Albion	Hotel	Miami, FL	$ 1,977,245	3/2001	8/2023	7.39% Fixed	7.39%	—	—	—	No	—
Total Assets			$241,105,684				6.34%	$91,913,811		3.17%		

(1) Interest rate excludes deferred interest component. See asset descriptions for terms.

(2) Interest rate does not include deferred interest component due to profit sharing arrangements pursuant to our warehouse facility. See “Management’s Discussion & Analysis of Financial Condition and Results of Operations of Arbor Realty Trust, Inc. and Subsidiaries — Liquidity and Capital Resources” for a description of these profit sharing arrangements.

A description of the terms and characteristics of each of the investments listed in the table above follows.

Bridge Loans

130 West 30th Street. ACM originated this $16.0 million bridge loan to 130 West 30th, LLC in September 2001 and contributed it to us upon the consummation of the original offering. The borrower used the proceeds to acquire an 18 story office building in New York, New York. It is currently undergoing construction to convert the building from office to residential condominiums using the ACM mezzanine loan proceeds purchased by us on July 1, 2003.

The loan bears interest at a variable rate of LIBOR plus 2.25%. In connection with ACM providing the borrower with additional mezzanine financing in June 2003, the maturity date of this bridge loan was extended to May 31, 2006. Interest payments are due monthly, and the principal balance is due in full upon maturity. The loan is secured by a first mortgage lien on the property. There is a limited guarantee on the loan of 50% by Mr. Ivan Kaufman and 50% by the key principal of the borrower.

The borrower has the option to extend the term of the loan for one 12 month period at no fee.

ACM holds a 50% membership interest in 130 West 30th, LLC which it did not contribute to us in connection with the asset contribution. This interest is used to partially fund a loan loss guarantee by ACM. See " —Participating Interests in Our Investments Retained by ACM" below.

1025 5th Avenue. ACM originated this $1.1 million bridge loan in October 2002 and contributed it to us upon the consummation of the original offering. The borrowers used the loan proceeds to renovate an apartment in a cooperative building in New York, New York.

As of September 30, 2003, the loan bore interest at a fixed rate of 18.00% per annum and was scheduled to mature in October 2003. In October 2003, the maturity date of the loan was extended to October 2004 and the interest rate was reduced to 10.00%. Interest payments are due monthly and the principal balance is due in full upon maturity. The loan is secured by a pledge of 225 cooperative shares owned by the lessee of the apartment and the apartment lease.

Concord Street & Henry Terrace. ACM originated this $5.0 million bridge loan to Henry Terrace, LLC and 100 Concord St., LLC in April 2003 and contributed it to us upon the consummation of the original offering. The borrowers used the proceeds to refinance an existing loan on a 74 unit multi-family residential property in Worcester, Massachusetts and a commercial property in Framingham, Massachusetts.

The loan bears interest at a variable rate of LIBOR plus 5.50%, with a 7.00% floor, and matures in April 2004. Interest payments are due monthly, and the principal balance is due in full upon maturity. In addition, upon maturity or prepayment of the loan, the borrower must pay deferred interest equal to the greater of 2.00% on the original principal balance or the amount necessary to generate an aggregate annual internal rate of return of 14.00%. The loan is secured by a first mortgage lien on the properties.

The borrower has the option to extend the term of the loan for one 6 month period at no fee if the loan has an outstanding principal balance of not more than $1.5 million at the time the extension is requested.

Dylan Hotel. ACM refinanced a discounted loan between Debis Financial Services Inc. and Grand Palace Hotel at the Park LLC with a $14.0 million bridge loan to Grand Palace Hotel at the Park LLC in March 2003. ACM contributed this bridge loan to us upon the consummation of the original offering. The borrower is the owner of a 107 room hotel in New York, New York.

The loan bears interest at a variable rate of one month LIBOR plus 5.00% with a floor of 6.50%, and matures in March 2005. Interest payments are due monthly, and the principal balance is due in full upon maturity.

In addition, upon maturity of the loan, the borrower must pay deferred interest of 1.00% on the principal repaid. The loan is secured by a first mortgage lien on the property.

The borrower has the option to extend the term of the loan for one 12 month period for additional interest of 1.00% on the outstanding principal balance upon such extension, but only if the borrower is in compliance with certain financial covenants.

ACM entered into a participation agreement with BD Hotels, LLC pursuant to which BD Hotels funded $2.1 million of the equity in the loan and is entitled to receive 50% of the net interest received by ACM, less a 0.50% management fee payable to ACM.

Emerald Bay Apartments. ACM originated this $16.4 million bridge loan to Empirian Bay LLC in May 2003 and contributed it to us upon the consummation of the original offering. The borrower used the loan proceeds to acquire and renovate a 432 unit multi family property in Winter Park, Florida. Of the total loan amount, $15.4 million has been disbursed and the remaining $1.0 million will be released as the renovations to the property are completed.

The loan bears interest on the outstanding balance at a variable rate of LIBOR plus 3.50%, with a floor of 5.50% and matures in December 2004. Interest payments are due monthly, and the borrower must make monthly principal payments of $21,000 until June 2004 and $30,000 from July 2004 through November 2004, with the balance due upon maturity. In addition, if the loan is repaid within the first 14 months after its origination, the borrower must pay deferred interest of .50%, and if the loan is repaid after this time, the borrower must pay deferred interest of 1.00%. The loan is secured by a first mortgage lien on the property and has been unconditionally guaranteed by certain affiliates of the borrower.

The borrower has an option to extend the term of the loan for one 6-month period for additional interest of 1.00% on the outstanding principal balance upon such extension and, if the first option is exercised, an option to extend for an additional 12-month period for additional interest of 1.00% on the outstanding principal balance upon such extension. If the initial term is extended, the borrower must pay interest monthly and make monthly principal payments of $30,000 from December 2004 to June 2005 and $75,000 from July 2005 through May 2006.

The loan is financed with a $16.2 million participation agreement with one of our lending partners pursuant to which we have a first loss position of $1.0 million. Of this participation amount, $12.9 million is currently outstanding. The participant is paid interest at a variable rate of LIBOR plus 3.00%, with a floor of 4.25%.

Grand Plaza. ACM originated a $25.5 million bridge loan to Grand Plaza Limited Partnership in November 2002 and contributed it to us upon the consummation of the original offering. The borrower used the loan proceeds to refinance outstanding debt on a 676 unit multifamily residential property located in Las Vegas, Nevada. The current outstanding balance on the loan is approximately $25.2 million.

The loan bears interest at a variable rate of LIBOR plus 3.00%, with a floor of 5.25%, and matures in December 2004. Interest and principal payments are due monthly. The loan is secured by a first mortgage lien on the property.

The borrower has the option to extend the term of the loan for one 12-month period at no fee.

Holiday Inn Convention Center. ACM originated this $5.7 million bridge loan to Hospitality Associates of DeLand Florida, Ltd. in March 2000 and contributed it to us upon the consummation of the original offering. The borrower used the loan proceeds to acquire and renovate the Holiday Inn Convention Center, a 148 room hotel in DeLand, Florida, as well as fund a $1.1 million capital improvements program. In connection with the extension of the maturity date, the borrower repaid $1.0 million of the outstanding principal balance, to $4.7 million.

The loan bears interest at a variable rate of LIBOR plus 6.65% with a floor of 12.50%, and matures in April 2004. Interest payments are due monthly, and the principal balance is due in full upon maturity. In addition, upon maturity or prepayment of the loan, the borrower must pay deferred interest of 3.00% on the principal repaid. The

loan is secured by a first mortgage lien on the property, a pledge of the partnership interests of the borrower and a pledge of the membership interests of certain of the borrower's affiliates.

Since the loan was not paid off by July 1, 2003, the borrower was required to pay additional interest of 0.50% on the outstanding principal balance. In October 2003, this bridge loan, together with all interest due, was repaid in full

Indiana Portfolio. ACM originated a $13.75 million bridge loan to NSH Affordable Housing of Indiana, Inc. in March 2003 and contributed it to us upon the consummation of the original offering. The borrower used the loan proceeds to acquire four affordable housing multi family properties located in Evansville, Indianapolis and Marion, Indiana.

The loan bears interest at a variable rate of one month LIBOR plus 4.25% and matures in March 2004. Interest payments are due monthly, and the principal balance is due in full upon maturity. The loan is secured by a first mortgage lien on the properties.

ACM also originated a separate $1.2 million bridge loan to the same borrower to fund renovations on the four properties described above. This loan also bears interest at a variable rate of one month LIBOR plus 4.25% and matures in March 2004. Interest payments on amounts drawn on the loan are due monthly, and the principal balance is due in full upon maturity. As of September 30, 2003, the outstanding principal balance was approximately $875,000. This loan is also secured by a first mortgage lien on the properties.

Palmetto Villas Apartments. ACM originated this $9.1 million bridge loan to Palmetto Villas Investors, LLC in May 2003 and contributed it to us upon the consummation of the original offering. The borrower used the loan proceeds to acquire and renovate a 134 unit multi family residential property in Ontario, California.

The loan bears interest at a variable rate of one month LIBOR plus 4.00%, with a floor of 5.50%, and matures in April 2005. Interest payments are due monthly, and the principal balance is due in full upon maturity. In addition, upon maturity or prepayment of the loan, the borrower must pay deferred interest of 1.00% on the principal repaid. The loan is secured by a first mortgage lien on the property.

The borrower has the option to extend the term of the loan for two 6 month periods. If the loan is extended the interest rate will increase to one month LIBOR plus 4.50%, with a floor of 6.00%. Additionally, the borrower must pay additional interest of .50% on the outstanding principal balance upon each such extension.

Partners Portfolio Bridge Loan. ACM originated this $14.2 million bridge loan to SRH/LA Chesapeake Apartments L.P., SRH/LA Nottingham, LLC, SRH/LA Hunter, LLC and SRH/LA Melvin, LLC in April 2003. ACM contributed this bridge loan to us upon the consummation of the original offering. The borrowers used the loan proceeds to acquire this 391 unit multi family residential portfolio, consisting of three properties in Baltimore, Maryland and fund a $1.6 million capital improvement program.

The loan bears interest at a variable rate of LIBOR plus 3.50% with a floor of 5.00%, and matures in April 2006. Interest payments are due monthly, and the principal balance is due in full upon maturity. In addition, upon maturity or prepayment of the loan, the borrowers must pay deferred interest of 1.00% on the principal repaid. The loan is secured by a first mortgage lien on each of the properties and partnership interests in certain affiliates of the borrower and a pledge of the cash flow of certain other properties.

Tropical Gardens Apartments. ACM originated this $8.8 million bridge loan to NHP Tropical Gardens Limited Partnership in December 2002 and contributed it to us upon the consummation of the original offering. The borrower used the loan proceeds to acquire and renovate a 245 unit multi family residential property located in Lauderdale Lakes, Florida.

The loan bears interest at a variable rate of LIBOR plus 3.50%, with a floor of 5.50%, and matures in December 2004. Interest payments are due monthly, and the principal balance is due in full upon maturity. In

addition, upon maturity or prepayment of the loan, the borrower must pay deferred interest of 1.00% on the principal repaid. The loan is secured by a first mortgage lien on the property.

Vermillion Apartments. ACM originated this $18.9 million bridge loan to SRH Vermillion Limited Partnership in September 2002 and contributed it to us upon the consummation of the original offering. The borrower used the loan proceeds to acquire a 330 unit multi family residential property located in Miami Lakes, Florida and fund a $1.3 million capital improvement program.

The loan bears interest at a variable rate of LIBOR plus 3.00%, with a floor of 5.00%, and matures in September 2004. Interest payments are due monthly and the principal balance is due in full upon maturity. The borrower must pay 0.50% of additional interest in September 2003, and 1.00% of deferred interest upon the prepayment or maturity of the loan unless the loan is refinanced with permanent financing from ACM in which case, the deferred interest will be waived, and ACM will reduce the management fee payable by us to ACM by an amount equal to 50% of the deferred interest waived. The loan is secured by a first mortgage lien on the property. An affiliate of the borrower has also provided a $1.5 million guarantee contingent upon the financial performance of the property. In October 2003, this bridge loan, together with interest due, was repaid in full.

Walbridge Terrace. We originated this $6.2 million bridge loan to Silver Lake Apartments, LLC in July 2003. The borrower used the loan proceeds to repay the existing construction loan and complete construction of this 40-unit senior housing property with 6,500 square feet of ground floor retail space in San Francisco, California.

The loan bears a variable rate of interest of LIBOR plus 4.50%, with a 6.00% floor, and matures in July 2004. The borrower paid a 2.00% origination fee on the date the loan closed. In accordance with our management agreement with ACM, the first 1.00% was paid to ACM and we retained the remaining 1.00%. The borrower must pay 1.00% of deferred interest upon the prepayment or maturity of the loan unless the loan is refinanced with permanent financing from ACM in which case, the deferred interest will be waived, and ACM will reduce the management fee payable by us to ACM by an amount equal to 50% of the deferred interest waived. The loan is secured by a first mortgage lien on the property and has been unconditionally guaranteed by key principals of the borrower.

Mezzanine Loans

80 Evergreen. ACM originated this $2.5 million mezzanine loan in June 2003. We purchased this loan from ACM effective August 1, 2003. The borrower used the loan proceeds to acquire and make repairs to a 77,680 square foot warehouse/industrial space located in Brooklyn, New York.

The loan bears a variable rate of interest of one-month LIBOR plus 8.00% with a floor of 9.50% and matures in May 2006. The borrower has the option to remit interest at a rate of LIBOR plus 3.50% with a 5.00% floor and to accrue the differential interest owed. Interest payments are due monthly, and the principal balance is due in full upon maturity. The loan is secured by a junior lien on the property. The loan is subordinate to a $1.6 million first mortgage lien held by a third party lender.

In connection with our refinancing of this mezzanine loan and the first mortgage lien in October 2003, this loan was repaid in full and replaced with a $4.8 million bridge loan made by us. The new bridge loan bears a variable rate of interest on one-month LIBOR plus 4.75% and will mature in May 2006.

The borrower has the option to extend the term of the loan for two 12-month periods at no fee.

130 West 30th Street. In connection with ACM's refinancing of the $16.0 million bridge loan to 130 West 30th, LLC on June 19, 2003, ACM agreed to provide the borrower with additional mezzanine financing in the amount of up to $8.0 million. This mezzanine loan matures in May 2006. We purchased this mezzanine loan from ACM on July 1, 2003 with a portion of the net proceeds from the original offering.

The additional financing will allow for the renovation/conversion of the office building to residential condominiums. The estimated cost of the construction project is $14.0 million, and it is estimated that the project will be completed by the end of the first quarter of 2004. Additional funds to complete construction are anticipated to come from the sales of the condominium units, cash flow from the operations and partner equity contributions.

The mezzanine financing bears interest at a variable rate of one-month LIBOR plus 7.00%, with a floor of 10.00%, and will be funded in two equal installments of $4.0 million. The two key principals will each contribute $1.0 million before either component is funded. The funding will be drawn down as construction progresses. The interest on the first component, which has been funded, will be earned on the full $4.0 million, while the interest on the second component, which has yet to be funded, will be earned as the $4.0 million is drawn down. The second component will remain unfunded unless a specified number of condominiums have been sold. The additional financing is secured by a second mortgage lien on the property.

333 East 34th Street. ACM originated this $10.0 million mezzanine loan to 333 East 34th, LLC in January 2002 and contributed it to us upon consummation of the original offering. The borrower used the loan proceeds to acquire and renovate a multi family residential building located in New York. The borrower is converting the New York rental property into condominiums.

The loan bears a variable rate of interest of one month LIBOR plus 5.00%, with a 12.50% floor, and matures in February 2004. The borrower has the option to remit interest at a rate of LIBOR plus 3.00% with an 8.00% floor and to accrue the differential interest owed, which compounds at an annual rate of 12.50%. Interest payments are due monthly, and the principal balance is due in full upon maturity. The loan is secured by a pledge of the membership interests in the borrower, and two affiliates of the borrower have personally guaranteed the loan for up to $1.0 million. The loan is subordinate to a $31.0 million first mortgage lien held by a third party lender.

The borrower has the option to extend the term of the loan for three, 12-month periods, the second of which requires a payment of additional interest of $300,000.

ACM holds a 15% interest in the property which it did not contribute to us in connection with the asset contribution. This interest is used to partially fund a loan loss guarantee by ACM. See "—Participating Interests in Our Investments Retained by ACM" below.

930 Flushing Avenue. ACM originated this $3.5 million mezzanine loan in June 2003. We purchased this loan from ACM effective August 1, 2003. The borrower used the loan proceeds to acquire the 300,000 square foot warehouse/industrial space located in Brooklyn, New York.

The loan bears a variable rate of interest of one-month LIBOR plus 8.00% with a floor of 9.50% and matures in May 2006. The borrower has the option to remit interest at a rate of LIBOR plus 3.50% with a 5.00% floor and to accrue the differential interest owed. Interest payments are due monthly, and the principal balance is due in full upon maturity. The loan is secured by a junior lien on the property. The loan is subordinate to a $7.7 million first mortgage lien held by a third party lender.

The borrower has the option to extend the term of the loan for two 12-month periods for addition interest of 3.00% of the outstanding principal balance upon exercise of each extension.

Carlton Arms Apartments. ACM originated this $4.0 million mezzanine loan to HRA Egypt Lake, Inc. and Carlton Arms, LLC in November 2001 and contributed it to us upon consummation of the original offering. The borrowers used the loan proceeds to refinance the existing debt on a 650 unit apartment complex located in Tampa, Florida.

The loan bears interest at a variable rate of one month LIBOR plus 6.75%, with a floor of 12.00%, and matures in December 2003. Interest payments are due monthly and since January 2002, the borrower has made principal payments from excess cash flow, with the unpaid principal balance due in full upon maturity. In addition, upon maturity or prepayment of the loan, the borrowers must pay deferred interest of $840,000 on the principal repaid. This deferred interest has not been accrued. Upon the maturity of this loan, we will allocate a portion of the

amount received to our manager pro-rata based on the time frame this loan was held by our manager prior to the ACM's asset contribution. The loan is secured by a pledge of the membership interests in the borrower. The loan is subordinate to an approximately $21.4 million first mortgage lien held by a third party lender. The borrowers have the option to extend the term of the loan for up to six months with no additional interest due.

In connection with our refinancing of this $4.0 million mezzanine loan and the first mortgage lien in October 2003, this loan was repaid in full, including all deferred interest due, a portion of which we allocated to ACM pro rata for the timeframe it held the loan. We replaced the loan with a $27 million bridge loan made by us, which has an initial term of 24 months with one 12-month extension. The borrower must pay additional interest of 1.00% on the outstanding principal balance upon such extension. The borrower paid a 1.50% origination fee on the date the loan closed. In accordance with our management agreement with ACM, the first 1.00% was paid to ACM and we retained the remaining 0.50%. In addition, upon maturity or prepayment of the loan, the borrower must pay deferred interest of 1.50% of the principal repaid.

The new bridge loan is bifurcated into two notes. Note A, for $21.5 million, bears a variable rate of interest of LIBOR plus 3.50% with a 5.00% floor. Note B, for $5.5 million, bears a variable rate of interest of LIBOR plus 6.50% with an 8.50% floor. Note A must be repaid before Note B may be repaid. Note B contains a first loss guaranty by the key principal for the $5.5 million loan amount.

The Crossings Apartments. ACM originated this $2.0 million mezzanine loan to Audubon-Glassboro, LLC in June 2003. We purchased this loan from ACM on July 1, 2003 with a portion of the net proceeds from the original offering. The borrowers used the loan proceeds to acquire and renovate a 328-unit multi-family apartment complex located in Glassboro, Gloucester County, New Jersey.

The loan bears interest at a variable rate of LIBOR plus 7.00%, with a 10.00% floor, and matures in June 2006. Interest payments are due monthly, and the unpaid principal balance is due in full upon maturity. In addition, upon maturity or prepayment of the loan, the borrower must pay deferred interest equal to the amount necessary to provide an aggregate annual internal rate of return of 13.00%. The loan is secured by a pledge of membership interest in the borrowing entity. The loan is subordinate to a $11.0 million first mortgage loan on the property.

The borrower has the option to extend the term of the loan for two 12-month periods upon payment of additional interest of $30,000, for the first extension, and $50,000, for the second extension, if the borrower is in compliance with certain financial covenants.

James Hotel. We originated this $6.6 million mezzanine loan to James Hotel Scottsdale, LLC in August 2003. The borrower is currently using the loan proceeds to renovate this recently acquired 206-room independent hotel located in Scottsdale, Arizona.

The loan bears a variable rate of interest of LIBOR plus 7.00%, with a 9.00% floor and a 10.00% cap. The loan matures in July 2006. The borrower paid a 2.00% origination fee on the date the loan closed. In accordance with our management agreement with ACM, the first 1.00% was paid to ACM and we retained the remaining 1.00%. Interest payments are due monthly, and the principal balance is due in full upon maturity. In addition, upon maturity of the loan, the borrower must pay deferred interest in an amount necessary to generate an aggregate annual internal rate of return of 18.00%. The loan is secured by a pledge of the membership interests in the borrower. The loan is subordinate to a $5.0 million first mortgage lien and a $5.0 million second mortgage lien held by a third party lender.

Of the $6.6 million loan, $2.2 million has been funded and we have retained the remaining $4.4 million in a renovation reserve account. These funds will be disbursed as required for the renovation. For the first ninety days, interest will be earned on only the disbursed proceeds; thereafter, interest will be earned on $6.6 million.

The borrower has the option to extend the term of the loan for one additional 12-month period for additional interest payment of 1.00% on the outstanding principal balance upon such extension.

Partners Portfolio. ACM originated this $4.7 million mezzanine loan to SRH/ LA Chesapeake Apartments L.P., SRH/LA Nottingham, LLC, SRH/LA Hunter, LLC and SRH/LA Melvin, LLC in April 2003. ACM

contributed this loan to us upon consummation of the original offering. The borrowers used the loan proceeds to acquire this 443 unit multi family residential portfolio consisting of two properties in Baltimore, Maryland.

The loan bears interest at a variable rate of (1) in the first year, LIBOR plus 4.50%, with a floor of 6.50% (2) in the second year, LIBOR plus 6.50%, with a floor of 8.50% and (3) in the third year, LIBOR plus 7.50%, with a floor of 9.50%. The loan matures in May 2006. Interest payments are due monthly, and the principal balance is due in full upon maturity. In addition, upon maturity or prepayment of the loan, the borrowers must pay deferred interest of 1.0% on the principal repaid. The loan is secured by a pledge of partnership interests of the above entities and a pledge of the cash flows of certain affiliates of the borrower.

Schron Portfolio B. ACM originated this $8.5 million mezzanine loan to Central Jersey Sub VII LLC in August 2000 and contributed it to us upon consummation of the original offering. The borrower used the loan proceeds to acquire and renovate two multi family properties in New Jersey. The loan has been modified twice, first in October 2002 in connection with the repayment of $5.5 million of outstanding principal, and in May 2003 to extend the term.

The loan bears interest at a variable rate of LIBOR plus 5.25%, with a floor of 6.75%, and matures in April 2005. Interest payments are due monthly, and the principal balance is due in full upon maturity. The loan is secured by the ownership interests of certain affiliates of the borrower. The loan is subordinate to a first mortgage lien with a current unpaid principal balance of approximately $14.0 million.

The borrower has the option to extend the term of the loan for three one-year periods at no fee.

ACM holds an 18% interest in the properties which it did not contribute to us in connection with the asset contribution. This interest is used to partially fund a loan loss guarantee by ACM. See "—Participating Interests in Our Investments Retained by ACM" below.

SMC Portfolio. We originated this $11.5 million mezzanine loan to various entities owned by Sawyer Realty Holdings, LLC in September 2003. The borrowers used the loan proceeds to refinance the existing first mortgage and make certain renovations to this 1,951-unit multi-family residential portfolio consisting of five properties in Baltimore, Maryland.

The loan bears interest at a variable rate of (1) in the first year, LIBOR plus 5.50%, with a floor of 7.50% (2) in the second year, LIBOR plus 6.50%, with a floor of 8.50% and (3) in the third year, if it is extended, LIBOR plus 7.50%, with a floor of 9.50%. The loan matures in September 2005. Interest payments are due monthly, and the principal balance is due in full upon maturity. In addition, upon maturity or prepayment of the loan, the borrower must pay deferred interest of 1.0% on the principal repaid. The loan is secured by a pledge of the membership interests in the borrowers as well as cash flow from another eight properties with first mortgage financing through ACM's Fannie Mae DUS lending program. The loan is subordinate to $59.2 million of first mortgage liens held by third party lenders.

The borrowers have the option to extend the term of the loan for three 12-month periods, the first of which requires a payment of additional interest of 1% of the outstanding principal balance upon such extension.

Preferred Equity Investments

CDS Texas Portfolio. ACM made this preferred equity investment in December 1998 and contributed it to us upon consummation of the original offering. This investment facilitated the acquisition and renovation of a nine property portfolio (Sea Breeze, Autumn Manor, Malibu, Lake Crest, Santa Fe, La Mesa, Trevino, Apache Arms and Harvard) containing 1,347 units located in Austin and El Paso, Texas. The investment was originally funded in the amount of $11.3 million. Subsequently, the property owner refinanced Lake Crest, Trevino, and Apache Arms and sold Harvard to reduce the principal balance. The current outstanding equity balance is $5.0 million. The properties are also security to debt amounting to $12.8 million held by third party lenders.

The investment bears a preferred return at a variable rate of six month LIBOR plus 4.50%, with a floor of 9.56%. The investment is required to be repurchased in January 2004 and upon such repurchase, the holder of the preferred interest is entitled to receive an additional preferred return of 2.00%.

Devonshire Apartments. ACM made this $2.5 million preferred equity investment in January 2002 in Merchant Devonshire Limited Partnership, the owner of a 180-unit multi family residential property in Holyoke, Massachusetts. ACM contributed this investment to us upon consummation of the original offering. The investment proceeds were used in connection with the acquisition of an office building in Hartford, Connecticut for approximately $23.3 million.

The investment bears a preferred return at a variable rate of LIBOR plus 7.50%, with a floor of 13.50%. The borrower has the option of remitting the preferred return at a pay rate of LIBOR plus 4.50% with a 10.00% floor and to accrue the differential owed. The preferred interest is required to be repurchased in January 2005, although such date may be extended for one, 12-month period without payment of a fee. The property secures a first mortgage lien with a current unpaid principal balance of approximately $5.4 million. In October 2003, this investment, together with all preferred return then due, was repaid in full.

Dutch Village Preferred Equity. ACM made this $7.1 million preferred equity investment in SRH/LA Chesapeake Apartments, L.P., and Partners of Dutch, Inc. We purchased this investment from ACM on July 1, 2003 with a portion of the net proceeds from the original offering.

The investment proceeds will be used to acquire a 544-unit multi-family apartment complex located in Baltimore, Maryland. The investment provides a variable rate return of (1) LIBOR plus 4.50%, with a floor of 6.50%, in the first year, (2) LIBOR plus 6.50%, with a floor of 8.50%, in the second year and (3) LIBOR plus 7.50%, with a floor of 9.50%, in the third year. Although the company is required to redeem the preferred equity investment in November 2006, this date may be extended by the company upon the exercise of three one-year extension periods. Upon the redemption, either on the redemption date or prior to such date, of the preferred equity investment, the company is required to pay an additional return of 1.00% on the original investment amount. The property is subject to a first mortgage lien with a current unpaid principal balance of $11.7 million.

Park Place Apartments. ACM made this $3.9 million preferred equity investment in January 2002 in Santa Ana Park Place Associates LLC, the owner of a 196 unit multi family residential building in Santa Ana, California, that also contains 7 retail units. ACM contributed this investment to us upon consummation of the original offering.

The investment proceeds were used to acquire and renovate the property. The owner has completed its improvements and currently has the property on the market. The investment bears a preferred return at a fixed rate of 16.00%, compounded monthly, although the owner has the option of remitting the preferred return at a pay rate of LIBOR plus 5.00%, with a 12.00% per annum floor and to accrue the differential owed, which compounds at an aggregate annual rate of 16.00%. The owner is required to repurchase the preferred interest in January 2005, although such date may be extended for one, 12-month period for a fee of $50,000. The property is subject to a first mortgage lien with a current unpaid principal balance of $10.7 million. As security for the investment, Santa Ana Park Place Corp. and K W Properties executed a guarantee in favor of Park Place LLC. In October 2003, this investment, together with all preferred return then due, was repaid in full.

Schron Portfolio A. ACM made a $19.3 million preferred equity investment in Central Jersey Prime Holdings LLC in May 2003 and contributed it to us upon consummation of the original offering. ACM had originally invested in May 2000 and also had an investment with a related party which was combined with this investment in May 2003. The investment proceeds were originally used to acquire 13 multi-family properties located throughout the state of New Jersey.

The investment bears a preferred return at a variable rate of LIBOR plus 5.25%, with a floor of 6.75%. The investment must be repurchased in April 2005, although the owner has the option to extend this obligation for three one year periods with no additional return. The properties are subject to a first mortgage lien with a current unpaid principal balance of approximately $189.3 million.

ACM holds an 18% interest in the properties which it did not transfer to us in connection with the asset contribution. This interest is used to partially fund a loan loss guarantee by ACM. See "—Participating Interests in Our Investments Retained by ACM" below.

Villages at Gateway. ACM made this $4.3 million preferred equity investment in February 2002 in BP C04 Property Associates, LLC, the owner of a 764 unit multi family residential property in Denver, Colorado. ACM contributed this investment to us upon consummation of the original offering. The owner used the proceeds to acquire and renovate the property. The investment was originally made in two components of $1.5 million and $2.8 million, one of which was repurchased by the owner leaving $2.8 million outstanding.

The investment bears a preferred return at a variable rate of LIBOR plus 6.00%, with a floor of 10.00%. The equity interest must be repurchased by the owner in March 2004, although the owner has the option to extend the repurchase date for one 12-month period at no additional return, followed by two six-month extensions subject to an additional return of $126,000 for the first and $140,000 for the second extension. The property secures a first mortgage lien with a current unpaid principal balance of approximately $23.4 million.

Upon repurchase of the interests, the owner must make an additional distribution, depending upon the year of repurchase: $100,240 during the first year, $300,160 during the second year and $529,760 during the third year and beyond. This additional distribution has not been accrued. Upon receipt of this additional distribution, we will allocate a portion of the amount received to our manager pro rata based on the time frame this investment was held by our manager prior to ACM's asset contribution.

Other Investments

Albion. ACM originated a $12.5 million bridge loan to Albion Associates, LTD in August 1998. The borrower used the loan proceeds to acquire and renovate a 96 room hotel in Miami Beach, Florida.

On March 14, 2001, ACM bifurcated the loan, which at that time had an unpaid principal balance of approximately $2.1 million. The A note, totaling $10.0 million, was sold to a third party and was subsequently securitized in the private market. ACM retained the B note, which currently has an unpaid balance of approximately $2.0 million, bears interest at a fixed rate of 7.39% is amortized over 30 years, and matures in September 2023. However, if the loan is not repaid by September 2008, the interest rate is increased by 5.00% and additional provisions regarding the allocations of the borrower's cash flow become effective. Pursuant to an agreement between ACM and the holder of the A note, the B note is subordinate to the A note with respect to the right to receive payments of interest and principal. In addition, following an event of default, the B note holder is subject to a standstill whereby the B note holder cannot exercise its remedies to realize upon the collateral until such time that all interest, principal, fees and costs are fully repaid to the A note holder.

ACM's Retained Interests in Our Investments

At the time of ACM's origination of three of the assets contributed to us upon consummation of the original offering, the 333 East 34th Street and Schron B mezzanine loans and the Schron A preferred equity investment, each of the property owners related to these investments granted ACM participating interests that share in a percentage of the cash flows of the underlying properties. At the time ACM made the 130 West 30th Street bridge loan also contributed to us, ACM and the borrower also entered into a joint venture in which each partner contributed 50% of the capital and is equally entitled to share in the profits and losses of the venture. Upon contribution of these four investments to us, ACM retained its participating interests in the three investment and its interest in the joint venture with the borrower under the 130 West 30th Street bridge loan, which we refer to collectively as ACM's retained interests. After each of the related investments is repaid or repurchased, ACM may realize value from the associated retained interests. ACM has agreed that if any portion of the outstanding amount of any of these four investments is not paid at the investment's maturity or repurchase date, ACM will pay to us, subject to the limitation described below, the portion of the unpaid amount of the investments up to the total amount then received by ACM due to the realization of any retained interests associated with any other of the four investments. However, ACM will no longer be obligated to make such payments to us when the remaining accumulated principal amount of the four investments, collectively, falls below $5 million and none of the four investments is in default.

The principal amount for each contributed investment protected by this payment obligation is equal to the principal balance of the investment at the time of contribution, plus the investment's interest expense paid by us in cash since contribution, less the investment income and deferred interest or preferred return received by us in cash since contribution.

Operations

Our Manager's Investment Services

Under the management agreement, ACM is responsible for sourcing originations, providing underwriting services and processing approvals for all loans and other investments in our portfolio. ACM also provides certain administrative loan servicing functions with respect to our loans and investments. We are able to capitalize on ACM's well established operations and services in each of these areas as described below.

Origination

Most of our investments originate from ACM. ACM serves its markets directly through its network of 14 sales offices located in Atlanta, Georgia; Bethesda, Maryland; Bloomfield Hills, Michigan; Boca Raton, Florida; Boston, Massachusetts; Chicago, Illinois; Dallas, Texas; Denver, Colorado; Los Angeles, California; Rochester, New York; San Clement, California; New York, New York; San Francisco, California; and Uniondale, New York. These offices are staffed by approximately 20 loan originators who solicit property owners, developers and mortgage loan brokers. In some instances the originators accept loan applications meeting our underwriting criteria from a select group of mortgage loan brokers. While a large portion of ACM's marketing effort occurs at the branch level, ACM also markets its products in industry publications and targeted direct mailings. Our manager markets structured finance products as our product offerings using the same methods.

Once potential borrowers have been identified, ACM determines which financing products best meet the borrower's needs. Loan originators in every branch office are able to offer borrowers the full array of ACM's financing products and our structured finance products. After identifying a suitable product, ACM works with the borrower to prepare a loan application. Upon completion by the borrower, the application is forwarded to ACM's underwriters for due diligence. See "—Underwriting."

Underwriting

Our manager's loan originators work in conjunction with its underwriters who have the responsibility to perform due diligence on all proposed transactions prior to loan approval and commitment. Upon receipt of each new loan application, the underwriter analyzes it in accordance with the guidelines set forth below in order to determine the loan's conformance and suitability with respect to those guidelines. In general, ACM's underwriting guidelines require it to evaluate the following:

- the historic and in place property revenues and expenses;
- the potential for near term revenue growth and opportunity for expense reduction and increased operating efficiencies; the property's location, its attributes and competitive position within its market;
- the proposed ownership structure, financial strength and real estate experience of the borrower and property management; third party appraisal, environmental and engineering studies;
- market assessment, including property inspection, review of tenant lease files, surveys of property comparables and an analysis of area economic and demographic trends; review of an acceptable mortgagee's title policy and an "as built" survey;
- construction quality of the property to determine future maintenance and capital expenditure requirements; and
- the requirements for any reserves, including those for immediate repairs or rehabilitation, replacement reserves, tenant improvement and leasing commission costs, real estate taxes and property casualty and liability insurance.

Key factors considered in credit decisions include, but are not limited to, debt service coverage, loan to value ratios and property, financial and operating performance. Consideration is also given to other factors, such as additional forms of collateral and identifying likely strategies to effect repayment. ACM will refine its underwriting criteria based upon actual loan portfolio experience and as market conditions and investor requirements evolve.

Investment Approval Process

ACM applies its established investment approval process to all loans and other investments proposed for our portfolio before submitting each proposal to us for final approval. A written report is generated for every loan or other investment that is submitted to ACM's seven member credit committee for approval. The presentation includes a description of the prospective borrower and any guarantors, the collateral and the proposed use of investment proceeds, as well as borrower and property consolidated financial statements and analysis. In addition, the presentation summarizes an analysis of borrower liquidity, net worth, cash investment, income, credit history and operating experience. If the transaction is approved by a majority of ACM's credit committee, it is presented for approval to our credit committee, which consists of our chief executive officer, our chief credit officer, our executive vice president of structured finance and our executive vice president of asset management. All transactions require the approval of a majority of the members of our credit committee, including the vote of our executive vice president of structured finance.

Following the approval of any such transaction, ACM's underwriting and servicing departments, together with our asset management group, assure that all loan approval terms have been satisfied and that they conform with lending requirements established for that particular transaction. If our credit committee and independent directors reject the loan and the independent directors allow ACM or one of its affiliates to pursue it, ACM will have the opportunity to execute the transaction. See "Our Manager and the Management Agreement—Rights of First Refusal."

Servicing

ACM services our loans through its internal servicing operations. Our manager currently services an expanding portfolio, consisting of approximately 500 loans with outstanding balances of $2.7 billion through its loan administration department in Buffalo, New York. ACM's loan servicing operations are designed to provide prompt customer service and accurate and timely information for account follow up, financial reporting and management review. Following the funding of an approved loan, all pertinent loan data is entered into ACM's data processing system, which provides monthly billing statements, tracks payment performance and processes contractual interest rate adjustments on variable rate loans. Our manager utilizes the operations of its loan administration department to service our portfolio with the same efficiency, accuracy and promptness. ACM also works closely with our asset management group to ensure the appropriate level of customer service and monitoring of these loans.

Our Asset Management Operations

Our asset management group is comprised of nine employees that comprised the asset management group at ACM. The experience and depth of services of the asset management group enabled ACM to improve the credit quality and yield of its structured finance investments. The asset management group, while at ACM, was responsible for managing over $2.5 billion in assets consisting of more than 500 real estate related investments for ACM. The asset management group has successfully managed numerous transactions, including complex restructurings, refinancings and asset dispositions. Through active participation in the financing and structuring strategies of transactions, many of these transactions have directly created value by generating excess cash flow or by enhancing asset values. Other transactions have dramatically reduced ACM's financial exposure.

The professionals that are part of this group are experienced in managing and servicing many types and classes of assets. Because each property and loan is unique, the asset management group, at the point of origination, customizes an asset management plan with the origination and underwriting teams to track the asset from origination through disposition. The asset management group is committed to effectively communicating to senior management the status of transactions against a pre-established plan, enhancing and preserving capital, as well as avoiding litigation and potential exposure. The asset management group also performs frequent site inspections, conducts

meetings with borrowers and evaluates and participates in the budgeting process, financial review of operations and the asset's renovation plans.

Effective asset and portfolio management is essential to maximizing the performance and value of a real estate/mortgage investment. The asset management group monitors each investment's operating history and assesses potential financial performance to accurately evaluate and ultimately improve operations and financial viability. As an asset and portfolio manager, the asset management group focuses on increasing the productivity of on site property managers and leasing brokers as well. The asset management group also monitors local economic trends, rental and occupancy rates and property competitiveness within its market.

Accurate identification of an investment's current issues and each stockholder's objectives is important in the loan workout and restructuring process. Since existing management may not have the requisite expertise to effectively implement and manage the workout process, the asset management group determines current operating and financial status of an asset or portfolio and performs liquidity analysis of properties and ownership entities and then identifies and evaluates alternatives in order to maximize the value of an investment.

Our asset management group continues to provide its services to ACM on a limited basis pursuant to an asset management services agreement between ACM and us. The asset management services agreement will be effective throughout the term of our management agreement and during the origination period described in the management agreement. In the event the services provided by our asset management group pursuant to this agreement exceed by more than 15% per quarter the level anticipated by our board of directors, we will negotiate in good faith with our manager an adjustment to our manager's base management fee under the management agreement, to reduce the scope of the services, the quantity of serviced assets or the time required to be devoted to the services by our asset management group.

Operating Policies and Strategies

Capital and Leverage Policies. Currently, we are financing our acquisition of mortgage assets through the proceeds of the original offering and through borrowings under our credit facility. In the future, we will finance our acquisition of mortgage assets primarily by borrowing against or "leveraging" our existing portfolio and using the proceeds to acquire additional mortgage assets. We expect to incur debt such that we will maintain an equity to assets ratio of up to 20%, although the actual ratio may be lower from time to time depending on market conditions and other factors deemed relevant by our manager. Our charter and bylaws do not limit the amount of indebtedness we can incur, and the board of directors has discretion to deviate from or change our indebtedness policy at any time. However, we intend to maintain an adequate capital base to protect against various business environments in which our financing and hedging costs might exceed interest income (net of credit losses) from our investments. These conditions could occur, for example, due to credit losses or when, due to interest rate fluctuations, interest income on our investments lags behind interest rate increases in our borrowings, which are expected to be predominantly variable rate. See "Risk Factors—Risks Related to our Business."

Liabilities. Our investments are financed primarily at short term borrowing rates through warehouse lines of credit, repurchase agreements, loan agreements, commercial paper borrowings and other credit facilities with institutional lenders. Although we expect that commercial warehouse lines of credit and repurchase agreements will be the principal means of leveraging our investments, we may issue preferred stock or secured or unsecured notes of any maturity if it appears advantageous to do so. We have substantially similar credit facilities as those used by ACM to finance the initial assets. These credit facilities are further described under "Liquidity and Capital Resources—Sources of Liquidity."

Credit Risk Management. We are exposed to various levels of credit and special hazard risk depending on the nature of our underlying assets and the nature and level of credit enhancements supporting our assets. We originate or purchase mortgage loans that meet minimum debt service coverage standards established by us. ACM, as our manager, and our chief credit officer review and monitor credit risk and other risks of loss associated with each investment. In addition, ACM seeks to diversify our portfolio of assets to avoid undue geographic, issuer, industry and certain other types of concentrations. Our board of directors monitors the overall portfolio risk and reviews levels of provision for loss.

Asset/Liability Management. To the extent consistent with our election to qualify as a REIT, we follow an interest rate risk management policy intended to mitigate the negative effects of major interest rate changes. We minimize our interest rate risk from borrowings by attempting to structure the key terms of our borrowings to generally correspond to the interest rate term of our assets.

Hedging Activities. Although ACM has not found it advantageous to enter into hedging transactions in the past, we may enter into such transactions in the future to protect our investment portfolio from interest rate fluctuations and other changes in market conditions. These transactions may include interest rate swaps, the purchase or sale of interest rate collars, caps or floors, options, mortgage derivatives and other hedging instruments. These instruments may be used to hedge as much of the interest rate risk as ACM determines is in the best interest of our stockholders, given the cost of such hedges and the need to maintain our status as a REIT. ACM may elect to have us bear a level of interest rate risk that could otherwise be hedged when it believes, based on all relevant facts, that bearing such risk is advisable.

Disposition Policies. Although there are no current plans to dispose of properties or other assets within our portfolio, ACM evaluates our asset portfolio on a regular basis to determine if it continues to satisfy our investment criteria. Subject to certain restrictions applicable to REITs, ACM may cause us to sell our investments opportunistically and use the proceeds of any such sale for debt reduction, additional acquisitions or working capital purposes.

Equity Capital Policies. Subject to applicable law, our board of directors has the authority, without further stockholder approval, to issue additional authorized common stock and preferred stock or otherwise raise capital, including through the issuance of senior securities, in any manner and on the terms and for the consideration it deems appropriate, including in exchange for property. Our existing stockholders, including stockholders purchasing in this offering, will have no preemptive right to additional shares issued in any offering, and any offering might cause a dilution of investment. See “Description of Stock.” We may in the future issue common stock in connection with acquisitions. We also may issue units of partnership interest in our operating partnership in connection with acquisitions of property.

We may, under certain circumstances, repurchase our common stock in private transactions with our stockholders, if those purchases are approved by our board of directors. Our board of directors has no present intention of causing us to repurchase any shares, and any action would only be taken in conformity with applicable federal and state laws and the applicable requirements for qualifying as a REIT, for so long as the board of directors concludes that we should remain a REIT.

Conflicts of Interest Policies. We, our executive officers and ACM face conflicts of interests because of our relationships with each other. Mr. Ivan Kaufman is our chief executive officer and the chief executive officer of ACM and serves on our credit committee and the Kaufman entities own approximately 88% of the beneficial equity interest of ACM. Mr. Frederick C. Herbst is our chief financial officer and the chief financial officer of ACM. In addition, Mr. Herbst, two of our executive vice presidents, Mr. Fred Weber and Mr. Daniel M. Palmier, and two of our directors, Mr. Joseph Martello and Mr. Walter Horn, have minority ownership interests in ACM, and Mr. Martello serves as the trustee of a trust through which Mr. Kaufman owns the majority of his ownership interest in ACM and co-trustee of another Kaufman entity that owns an equity interest in ACM.

We have implemented several policies, through board action and through the terms of our constituent documents and of our agreements with ACM, to help address these conflicts of interest:

- Our charter requires that a majority of our board of directors be independent directors and that only our independent directors make any determinations on our behalf with respect to the relationships or transactions that present a conflict of interest for our directors or officers.

- Our board of directors has adopted a policy that decisions concerning our management agreement with ACM, including termination, renewal and enforcement thereof, or concerning any acquisition of assets from ACM or its affiliates or other participation in any transactions with ACM or its affiliates outside of the management agreement must be reviewed and approved by a majority of our independent directors.

- Our management agreement provides that our determinations to terminate the management agreement for cause or because the management fees are unfair to us or because of a change in control of our manager will be made by a majority vote of our independent directors.

- Our independent directors will periodically review the general investment standards established for ACM under the management agreement.

- Our management agreement with ACM provides that ACM may not assign duties under the management agreement, except to certain affiliates of ACM, without the approval of a majority of our independent directors.

- Our management agreement provides that decisions to approve or reject investment opportunities rejected by our credit committee that ACM or Mr. Kaufman wish to pursue will be made by a majority of our independent directors.

Other Policies. We intend to operate in a manner that will not subject us to regulation under the Investment Company Act. We may invest in the securities of other issuers for the purpose of exercising control over such issuers and underwrite securities of other issuers, particularly in the course of disposing of their assets.

Future Revisions in Policies and Strategies. Our board of directors has approved the investment guidelines and the operating policies and the strategies set forth in this prospectus. The board of directors has the power to modify or waive these policies and strategies, or amend our agreements with ACM, without the consent of our stockholders to the extent that the board of directors (including a majority of our independent directors) determines that such modification or waiver is in our best interest or the best interest of our stockholders. Among other factors, developments in the market that either affect the policies and strategies mentioned herein or that change our assessment of the market may cause our board of directors to revise its policies and strategies. However, if such modification or waiver involves the relationship of, or any transaction between, us and our manager or any affiliate of our manager, the approval of a majority of our independent directors is also required. We may not, however, amend our charter to change the requirement that a majority of our board consist of independent directors or the requirement that our independent directors approve related party transactions without the approval of two thirds of the votes entitled to be cast by our stockholders.

Policies With Respect to Certain Other Activities

Reporting Policies. Generally speaking, we intend to make available to our stockholders certified annual consolidated financial statements and annual reports. After this offering, we will become subject to the information reporting requirements of the Securities Exchange Act of 1934, as amended, referred to as the Exchange Act. Pursuant to these requirements, we will file periodic reports, proxy statements and other information, including audited consolidated financial statements, with the Securities and Exchange Commission.

Our Operating Partnership

We have organized Arbor Realty Limited Partnership, our operating partnership, as a limited partnership under the Delaware Revised Uniform Limited Partnership Act. We serve as the sole general partner of our operating partnership, and own a 72% partnership interest in our operating partnership represented by operating partnership units that we obtained in exchange for our contribution of the net proceeds of the original offering to our operating partnership. The remaining 28% partnership interest in our operating partnership is owned by ACM. In exchange for the contribution of the initial assets to our partnership, ACM received approximately 3.1 million operating partnership units and 629,000 warrants, each of which entitles ACM to purchase one additional operating partnership unit for two years from the date of issue. ACM's operating partnership units, including units issued upon exercise of the warrants, each is paired to one share of our special voting preferred stock and is redeemable, at the option of ACM, for cash, or at our election, our common stock, generally on a one for one basis, at any time after the earlier of (1) two years following the closing of the original offering and (2) six months following the effectiveness of the registration statement of which this prospectus is a part. However, ACM is limited at any given time to redeeming (whether for cash or stock) a number of units such that, if we were to issue shares of our common stock to satisfy the redemption right, ACM would not exceed the REIT-related ownership limitations contained in our charter.

Competition

Our net income depends, in large part, on our manager's ability to originate structured investments with spreads over our borrowing costs. In originating these investments, our manager competes with other mortgage REITs, specialty finance companies, savings and loan associations, banks, mortgage bankers, insurance companies, mutual funds, institutional investors, investment banking firms, other lenders, governmental bodies and other entities. In addition, there are numerous mortgage REITs with asset acquisition objectives similar to ours, and others may be organized in the future. The effect of the existence of additional REITs may be to increase competition for the available supply of mortgage assets suitable for purchase by us. Some of our anticipated competitors are significantly larger than us, have access to greater capital and other resources and may have other advantages over us.

Employees

We currently have eleven employees, including Mr. Kovarik, our chief credit officer, Mr. Weber, our executive vice president of structured finance, Mr. Palmier, our executive vice president of asset management, and a eight person asset management group. Mr. Kaufman, who serves as our chief executive officer and Mr. Herbst, who serves as our chief financial officer, each of whom is a full time employee of our manager, perform the duties required pursuant to the management agreement with our manager and our bylaws.

Legal Proceedings

We are not involved in any litigation nor, to our knowledge, is any litigation threatened against us.

OUR MANAGER AND THE MANAGEMENT AGREEMENT

Manager

We have chosen to be externally managed by ACM to take advantage of the existing business relationships, operational and risk management systems, expertise and economies of scale associated with ACM's current business operations. ACM is a national commercial real estate finance company, which was founded in 1993 as a subsidiary of ANH, an originator and servicer of residential mortgage loans. Our chief executive officer, Mr. Ivan Kaufman, also ACM's chief executive officer and controlling equity owner, was the co-founder, chairman and majority stockholder of ANH. Under Mr. Kaufman's direction, ANH grew to 25 branches in 11 states and funded more than $4 billion in loans in its last full year of operations. ANH became a public company in 1992 and was sold to BankAmerica in 1995. As chairman and chief executive officer of ANH, Mr. Kaufman developed significant experience operating and managing a publicly traded company.

In connection with the sale of ANH, Mr. Kaufman purchased its commercial mortgage lending operations and the rights to the "Arbor" name and retained a significant portion of ANH's senior management team. This senior management team has guided ACM's growth from a company originally capitalized with approximately $8.0 million, to its current equity value of approximately $69 million as of September 30, 2003. ACM is now a full service provider of financial services to owners and developers of commercial and multi-family real estate properties. ACM, which has been profitable every year since 1995, originated over $600 million in new loans in 2002 and is currently servicing a portfolio with a principal balance of $2.7 billion.

ACM's executive officers and employees have extensive experience in originating and managing structured commercial real estate investments. The senior management team has an average of over 20 years experience in the financial services industry. ACM currently has 130 employees spread among its corporate headquarters in Uniondale, New York and 15 offices located throughout the United States.

At September 30, 2003, the Kaufman entities beneficially owned approximately 88% membership interest in ACM. Our chief financial officer, our executive vice presidents of structured finance and asset management and our secretary collectively own an approximately 3.5% membership interest in ACM. One of our directors, Mr. Martello, owns an approximately 1.5% membership interest in ACM and serves as the trustee of one of the Kaufman entities that owns a majority of the equity interest in ACM and co-trustee of another Kaufman entity that owns an equity interest in ACM. In exchange for ACM's contribution of the initial assets and related liabilities to our operating partnership, our operating partnership issued to ACM approximately 3.1 million units of limited partnership interest and 629,000 warrants for additional units of limited partnership interest, each of which are redeemable, at our election, for cash or one share of our common stock. Each of the approximately 3.1 million operating partnership units received by ACM, is paired with one share of our special voting preferred stock that has one vote on all matters submitted to a vote of the stockholders.

We have granted our non-employee executive officers and other employees of our manager who provide services to us awards of 128,500 shares of restricted stock, representing 1.6% of the number of shares of common stock currently outstanding. Our manager and its employees have a total beneficial ownership in our common stock of approximately 33%, taking into account (1) operating partnership units that are held of record by ACM and that may be acquired by ACM upon exercise of warrants for additional operating partnership units, (2) the restricted stock awards to certain executive officers and employees of our manager who provide services to us and (3) units purchased in the original offering by such individuals and others affiliated with our manager. Our manager is entitled to receive an annual base management fee from us and may receive incentive compensation based on certain performance criteria and certain other fees.

The executive offices of our manager are located at 333 Earle Ovington Boulevard, Suite 900, Uniondale, New York 11553 and the telephone number of its executive offices is (516) 832-8002.

Officers of Our Manager

The following table sets forth certain information with respect to the executive officers of our manager.

Name	Age	Position with Our Manager
Ivan Kaufman	42	Chief Executive Officer and President
Frederick C. Herbst	46	Chief Financial Officer
Ronald D. Gaither	45	Chief Operating Officer
Walter K. Horn	60	General Counsel
John Caulfield	39	Senior Vice President—Capital Markets

Ivan Kaufman. Mr. Kaufman has served as our chairman of the board, chief executive officer and president since June 2003. Mr. Kaufman has been chief executive officer and president of ACM since its inception. In 1983, he co-founded ANH and its residential lending subsidiary, Arbor National Mortgage Inc. Under Mr. Kaufman's direction, ANH grew to 25 branches in 11 states and funded more than $4 billion in loans in its last full year of operations. ANH became a public company in 1992 and was sold to BankAmerica in 1995. As chairman and chief executive officer of ANH, Mr. Kaufman developed significant experience operating and managing a publicly traded company. Mr. Kaufman was named regional "Entrepreneur of the Year" by Inc. Magazine for outstanding achievements in financial services in 1990. He was appointed to the National Advisory Board of Fannie Mae in 1994. Mr. Kaufman has also served on Fannie Mae's regional advisory and technology boards, as well as the board of directors of the Empire State Mortgage Bankers Association.

Frederick C. Herbst. Mr. Herbst has served as our chief financial officer since June 2003. Mr. Herbst has been chief financial officer of ACM since joining the company in November 1999. He is a member of ACM's executive committee and is responsible for all aspects of ACM's financial operations, including financial reporting, tax planning, budgeting and the appropriate utilization of ACM's capital. Before joining ACM in 1999, he was chief financial officer with The Hurst Companies, Inc. Previously, Mr. Herbst was controller with The Long Island Savings Bank, FSB, vice president finance with Eastern States Bankcard Association and senior manager with Ernst & Young. Mr. Herbst became a certified public accountant in 1983.

Ronald D. Gaither. Mr. Gaither is a member of ACM's executive committee and is the senior credit officer. Before joining ACM in March 1999, he was the chief credit officer for PNC Mortgage Corporation in Chicago. During his tenure, he served on the board of directors of PNC Mortgage Reinsurance Corporation. Mr. Gaither also served on the Affordable Housing Advisory Board with Freddie Mac. Mr. Gaither has held senior management positions with Amerin Guaranty, Prudential Home Mortgage and First Union National Bank.

Walter K. Horn. Mr. Horn has served as our secretary, general counsel and one of our directors since his appointment in November 2003. Mr. Horn is also a member of ACM's executive committee and is responsible for providing all legal services for ACM. Previously, Mr. Horn was general counsel with ANH from 1991 until its sale in 1995 and has continued in a similar capacity with ACM. His experience also includes serving as general counsel with Resource One, Inc. and Long Island Trust Company.

John Caulfield. Mr. Caulfield is a member of ACM's executive committee and is responsible for all capital markets activities, including interest rate, risk management and secondary marketing activities for ACM. Mr. Caulfield's responsibilities include the pricing arid selling of Fannie Mae MBS/DUS and conduit loans and managing ACM's pipeline to ensure timely underwriting and funding. Before joining ACM in 1995, Mr. Caulfield was vice president of secondary marketing with ANH.

The Management Agreement

We and our operating partnership entered into a management agreement with ACM, pursuant to which ACM has agreed to provide us with structured finance investment opportunities and loan servicing as well as other services necessary to operate our business. We employ only three executive officers and eight individuals who provide asset management services for our portfolio of investments. Our chief executive officer, chief financial officer and our secretary are not our employees. We rely to a significant extent on the facilities and resources of our manager to conduct our operations.

The management agreement requires our manager to manage our business affairs in conformity with the policies and the general investment guidelines that are approved and monitored by our board of directors. Our manager's management is under the direction of our board of directors.

Our directors will periodically review the investment guidelines and our investment portfolio but do not review each proposed investment. In conducting their periodic reviews, the directors rely on information provided to them by our manager. Transactions entered into by our manager may be difficult or impossible to unwind by the time they are reviewed by the directors.

Mr. Kaufman, our chairman and chief executive officer and Mr. Herbst, our chief financial officer, also serve as chief executive officer and chief financial officer, respectively, of our manager, and we were formed by our manager. As a result, the management agreement was not negotiated at arm's length and its terms, including fees payable, may not be as favorable to us as if the agreement had been negotiated with an unaffiliated third party. In addition, Walter Horn, who is the general counsel of our manager, became our secretary after the original offering.

Management Services

Pursuant to the terms of the management agreement, our manager is required to provide a dedicated management team, including a chief executive officer, chief financial officer and secretary, Messrs. Kaufman, Herbst and Horn, respectively, to provide the management services to us, the members of which team will devote such of their time to the management of us as our independent directors reasonably deem necessary and appropriate, commensurate with our level of activity from time to time.

Our manager is responsible for our day to day operations and performs (or causes to be performed) such services and activities relating to our assets and operations as may be appropriate, including, without limitation, the services described below.

Management Oversight

- Providing executive and administrative personnel, office space and office services required in rendering services to us;
- Administering our day to day operations and functions necessary to our management as may be agreed upon by our manager and the board of directors, including the collection of interest, fee and other income, the payment of our debts and obligations, the payment of dividends or distributions to our stockholders and maintenance of appropriate back office infrastructure to perform such administrative functions;
- Serving as our consultant with respect to the periodic review of the investment criteria and parameters for our investments, borrowings and operations for the approval of our board of directors;
- Counseling us in connection with policy decisions to be made by our board of directors;
- Using commercially reasonable efforts to cause expenses incurred by us or on our behalf to be reasonable and customary and within any budgeted parameters or expense guidelines set by our board of directors from time to time;
- Advising us as to our capital structure and capital raising;
- Coordinating and managing operations of any joint venture or co-investment interests held by us and conducting all matters with the joint venture or co investment partners;
- Communicating on our behalf with the holders of any of our equity or debt securities as required to satisfy the reporting and other requirements of any governmental bodies or agencies or trading markets and to maintain effective relations with such holders;
- Handling and resolving all claims, disputes or controversies (including all litigation, arbitration, settlement or other proceedings or negotiations) in which we may be involved or to which we may be subject arising out of our day to day operations, subject to such limitations or parameters as may be imposed from time to time by our board of directors; and
- Evaluating and recommending to our board of directors, and engaging in potential hedging activities on our behalf, consistent with our status as a REIT and with the investment guidelines.

Origination and Investment Expertise

- Building borrower relationships, originating investment opportunities with those borrowers and analyzing and underwriting possible investment opportunities for eventual submission to our credit committee;
- Assisting us in developing criteria for investment commitments that are specifically tailored to our investment objectives and making available to us its knowledge and experience with respect to mortgage loans, real estate and other real estate related assets; and
- Investing or reinvesting any money of ours, including investing in short term investments pending investment in long term asset investments.

Regulatory Compliance

- Assisting us in complying with all regulatory requirements applicable to us in respect of our business activities, including preparing or causing to be prepared all consolidated financial statements required under applicable regulations and contractual undertakings and all reports and documents, if any, required under the Securities Exchange Act;
- Taking all necessary actions to enable us to make required tax filings and reports, including soliciting stockholders for required information to the extent provided by the REIT provisions of the Code and the Treasury Regulations promulgated thereunder;
- Counseling us regarding the maintenance of our status as a REIT and monitoring compliance with the various REIT qualification tests and other rules set out in the Code and the Treasury Regulations promulgated thereunder;
- Causing us to retain qualified accountants and legal counsel, as applicable, to assist in developing appropriate accounting procedures, compliance procedures and testing systems with respect to financial reporting obligations and compliance with the REIT provisions of the Code and the Treasury Regulations promulgated thereunder and to conduct quarterly compliance reviews with respect thereto;
- Counseling us regarding the maintenance of our exemption from the Investment Company Act and monitoring compliance with the requirements for maintaining an exemption from that Act;
- Causing us to qualify to do business in all applicable jurisdictions and to obtain and maintain all appropriate licenses; and
- Using commercially reasonable efforts to cause us to comply with all other applicable laws.

Pursuant to the management agreement, our manager does not assume any responsibility other than to render the services called for thereunder and is not responsible for any action of our board of directors in following or declining to follow our managers' advice or recommendations. Our manager, its directors and its officers are not liable to us, any subsidiary of ours, our directors, our stockholders or any subsidiary's stockholders for acts performed in accordance with and pursuant to the management agreement, except by reason of acts constituting bad faith, willful misconduct, gross negligence, or breach of their duties under the management agreement and except for claims by manager's employees relating to the terms and conditions of their employment. Pursuant to the management agreement, we agree to indemnify our manager, its directors and its officers with respect to all expenses, losses, damages, liabilities, demands, charges and claims arising from acts of our manager not constituting bad faith, willful misconduct, gross negligence, or breach of duties, performed in good faith in accordance with and pursuant to the management agreement but excluding claims by the manager's employees relating to the terms and conditions of their employment. Our manager agrees to indemnify us, our directors and officers with respect to all expenses, losses, damages, liabilities, demands, charges and claims arising from acts of our manager constituting bad faith, willful misconduct, gross negligence or breach of its duties under the management agreement and any claims by the manager's employees relating to the terms and conditions of their employment. Our manager also carries errors and omissions and other customary insurance.

Term. The management agreement has an initial term of two years and is renewable automatically for an additional one year period every year thereafter, unless terminated with six months' prior written notice.

Our Termination Rights. After the initial two-year term, we will be able to terminate the management agreement without cause for any reason upon six months' prior written notice to ACM. If we terminate the

management agreement without cause, or we give ACM notice of non-renewal, in order to manage our operations internally, we will be required to pay our manager a termination fee equal to the base management fee and the incentive compensation earned during the 12-month period preceding the termination. If, without cause, we terminate the management agreement or elect not to renew it for any other reason, including a change of control of us but excluding a change in control of our manager, we will be required to pay a termination fee equal to two times the base management fee and the incentive fee earned during the 12-month period preceding the termination.

Notwithstanding the paragraph above, if we provide our six month notice of termination without cause because our independent directors have determined that the management fees are unfair, then ACM may agree to perform its management services at the fees our independent directors determine to be fair and the management agreement will not terminate. If ACM does not agree to perform its management services for those fees, or if ACM so agrees but then gives us notice that it wishes to renegotiate the fees, then we and ACM must negotiate in good faith and if we cannot agree on a revised fee structure at the end of our six-month notice period, the agreement will terminate and we must pay the termination fees described above.

We also have the right to terminate the management agreement for cause upon prior written notice to ACM with the approval of our board of directors including the consenting vote of a majority of our independent directors. In such a case, we would not be required to pay a termination fee. “Cause” is defined as fraud, misappropriation of funds, willful violation of the management agreement, gross negligence, breach by our manager of a material term of the management agreement that is not timely cured, the removal by us of Mr. Ivan Kaufman as our chief executive officer for cause, or a change in control of our manager (other than a change in control because of a public offering of our manager).

ACM’s Termination Rights. ACM has the right to terminate the management agreement (effective upon expiration of the cure period) upon a breach of a material term of the management agreement by us that is not timely cured. ACM also has the right to terminate the management agreement after the initial two-year term without cause on six months’ prior written notice to us. Except in connection with a change in control of ACM within the first three years as described below, ACM will not be obligated to pay us a termination fee if it terminates or elects not to renew the management agreement.

Change of Control of ACM

Within the initial two-year term and the first one-year renewal term of the management agreement, if:

- ACM or its successor elects not to renew or to terminate the management agreement within two years after a change in control of ACM or the execution of an agreement that will cause a change in control of ACM, or
- ACM gives us a notice of non-renewal or termination, then experiences a change of control or executes an agreement that will cause a change in control of ACM in one year, then ACM or its successor will have to pay us a fee in an amount equal to two times the base management fee and the incentive compensation earned during the 12-month period preceding the termination or non renewal notice.

We are able to terminate the management agreement upon 30 days’ prior written notice to ACM, without payment of a fee, if:

- Mr. Kaufman is no longer chief executive officer of ACM, but not by reason of his death, disability or incapacity, or
- a change of control of ACM occurs.

As defined in the management agreement, change of control of ACM shall not include any public offering of the capital stock of ACM.

Assignment. Neither we nor ACM are able to assign its rights or obligations under the management agreement without the consent of the other party. However, ACM may, without our consent, assign the management agreement to an “affiliate” (meaning any entity controlling, controlled by or under common control

with ACM, and "control" means the direct or indirect ownership of at least 51% of the beneficial equity interests and voting power of such entity) whose day to day business and operations are managed and supervised by Mr. Kaufman, provided that ACM shall be fully responsible to us for all errors or omissions of such assignee. Our manager is also be permitted to subcontract or assign certain of its duties under the management agreement to any affiliate of our manager that meets the foregoing qualification.

Management Fees and Incentive Compensation

Since we employ only three executive officers and eight other employees, we rely to a significant extent on the facilities and resources of our manager to conduct our operations. For performing services under the management agreement, ACM receives a base management fee and incentive compensation calculated as described below.

Base Management Fee. Our manager receives an annual base management fee, payable monthly in arrears in cash, calculated monthly as a percentage of our equity and equal to 0.75% per annum of the equity up to $400 million, 0.625% per annum of the equity between $400 million and $800 million and 0.50% per annum of the equity in excess of $800 million. For purposes of calculating the base management fee, the term "equity" means the month end value computed in accordance with generally accepted accounting principles of (1) total partners' equity in our operating partnership, plus or minus (2) any unrealized gains, losses or other items that do not affect realized net income.

Incentive Compensation. Our manager is entitled to receive incentive compensation in installments each fiscal quarter. In addition, our manager is entitled to receive incentive compensation each fiscal quarter in an annual amount equal to the product of:

(1) 25% of the dollar amount by which:

- the sum of: (i) our operating partnership's "Funds From Operations" (before the incentive compensation) per operating partnership unit (based on the weighted average number of operating partnership units outstanding, including operating partnership units issued to us equal to the number of shares of our common stock issued by us) for such quarter and (ii) gains (or losses) from debt restructuring and sales of property per operating partnership unit (based on the weighted average number of units outstanding, including operating partnership units issued to us equal to the number of shares of our common stock issued by us) for such quarter; exceeds
- the product of (i) the weighted average (based on shares of our common stock and operating partnership units) of (a) the per operating partnership unit book value of the net assets to be contributed by ACM, (b) $15, (c) the offering price per share of any subsequent offerings by us of our common stock and (d) the issue price per operating partnership unit for subsequent contributions to our operating partnership (including shares of common stock issued upon exercise of warrants or options and adjusted for any prior stock dividends or distributions), and (ii) the greater of (x) 9.50% per annum and (y) the ten year U.S. Treasury rate plus 3.50% per annum; multiplied by

(2) the weighted average number of operating partnership units outstanding, including operating partnership units issued to us equal to the number of shares of our common stock issued by us.

The incentive compensation will be measured in fiscal quarters for the remainder of 2003. Beginning on January 1, 2004, the incentive management fee will be measured over a full fiscal year, subject to recalculation and potential reconciliation at the end of each fiscal year.

"Funds From Operations" as defined by National Association of Real Estate Investment Trusts means net income, computed in accordance with generally accepted accounting principals, excluding gains (or losses) from debt restructuring and sales of property, plus depreciation and amortization on real estate assets, and after adjustments for unconsolidated partnerships and joint ventures. Funds from operations does not represent cash generated from operating activities in accordance with GAAP and should not be considered as an alternative to net income as an indication of our performance or to cash flows as a measure of liquidity or ability to make distributions.

As used in calculating the manager's compensation, the term "Ten Year U.S. Treasury Rate" means the arithmetic average of the weekly average yield to maturity for actively traded current coupon U.S. Treasury fixed interest rate securities (adjusted to constant maturities of 10 years) published by the Federal Reserve Board during a quarter, or, if such rate is not published by the Federal Reserve Board, any Federal Reserve Bank or agency or department of the federal government selected by us. If we determine in good faith that the Ten Year U.S. Treasury Rate cannot be calculated as provided above, then the rate shall be the arithmetic average of the per annum average yields to maturities, based upon closing asked prices on each business day during a quarter, for each actively traded marketable U.S. Treasury fixed interest rate security with a final maturity date not less than eight nor more than 12 years from the date of the closing asked prices as chosen and quoted for each business day in each such quarter in New York City by at least three recognized dealers in U.S. government securities selected by us.

The management agreement provides that at least 25% of our manager's incentive compensation is to be paid in shares of our common stock (subject to the ownership limitations contained in our charter) and the balance in cash. However, our manager is able to elect to receive a greater percentage of its incentive compensation in the form of our common stock. We may provide for registration rights for shares of common stock used to pay our manager's incentive compensation. Under our management agreement, ACM agrees that it may not elect to receive shares of our common stock as payment of its incentive compensation, except in accordance with all applicable securities exchange rules and securities laws (including prohibitions on insider trading). In addition, ACM is not able to receive our stock in payment of fees, whether automatically or by ACM's election, if it would cause ACM or Mr. Kaufman to beneficially own an amount of our common stock in violation of the ownership limitations in our charter.

Our manager uses the proceeds from its base management fee in part to pay compensation to its officers and employees who, notwithstanding that some of them are also our officers, receive no direct compensation from us, other than restricted stock that may be granted pursuant to our stock incentive plan.

For purposes of determining the number of shares to be delivered in satisfaction of the incentive compensation to be paid with our common stock, we will value our shares at the average per share closing price based on the period of 20 days ending on and including the last day of the applicable fiscal quarter.

In evaluating investments and other management strategies, the opportunity to earn incentive return based on Funds From Operations may lead our manager to place undue emphasis on the maximization of Funds From Operations at the expense of other criteria, such as preservation of capital, in order to achieve a higher incentive return. Investments with higher yield potential are generally riskier or more speculative. This could result in increased risk to the value of our invested portfolio.

Reimbursement of Expenses

Our manager is responsible for all costs incident to the performance of its duties under the management agreement, including compensation of our manager's employees, rent for facilities and other "overhead" expenses.

The expenses required to be paid by us or for which we reimburse our manager include, but are not limited to:

- legal, accounting and auditing fees and expenses of third parties for services rendered for us that are paid by the manager;
- the compensation, benefits and expenses of our independent directors and employees;
- travel and other out of pocket expenses of our employees in connection with the purchase, financing or sale of our investments;
- the costs of printing and mailing proxies and reports to stockholders;
- costs to obtain liability insurance to indemnify our directors and officers, the manager and its employees and directors and the underwriters;
- key man life insurance costs for our chief executive officer; and
- the compensation and expenses of our custodian and transfer agent, if any.

We are also required to pay or reimburse our manager for all expenses incurred on behalf of us in connection with:

- raising of capital or the incurrence of debt,
- interest expenses,
- taxes and license fees,
- litigation and
- extraordinary or non recurring expenses.

Expense reimbursements to our manager are be made quarterly.

Restricted Stock Awards. We have granted to certain executive officers and employees of our manager who provide services to us 127,500 shares of restricted stock pursuant to our stock incentive plan. We have also reserved up to 35,500 shares for future grants to directors, officers and certain of our employees and certain employees of our managers. Two-thirds of the shares granted vested immediately and the remaining one-third will vest ratably over three years. These restricted shares provide a means of performance based compensation in order to provide an additional incentive for our manager's employees to enhance the value of our common stock.

Origination Fees. With respect to each bridge loan and mezzanine loan originated during the term of the management agreement, we agreed with ACM that we will (1) pay ACM an amount equal to 100% of the origination fees paid by the borrower to us, up to 1% of the loan's principal amount, and (2) retain 100% of the origination fees paid by the borrower in excess of 1% of the loan's principal amount.

Additional Interest. Under the management agreement, we receive any additional interest and other payments due upon maturity of any loan and fees paid by borrowers under bridge and mezzanine loans originated during the term of the management agreement, except that origination fees are allocated according the agreement described in the paragraph above. We have agreed with ACM that we are entitled to deduct from the applicable monthly installment of the base management fee due to ACM an amount equal to 50% of any otherwise payable additional interest due upon maturity of any of our loans if such interest is waived in accordance with the provision of the applicable loan agreement because the borrower refinances one of our structured finance investments with a Fannie Mae, FHA or conduit commercial loan originated by ACM.

Rights of First Refusal

ACM and Mr. Kaufman, through his non-competition agreement with us, have granted us a right of first refusal to pursue all opportunities identified by them or their affiliates related to structured finance investments in or with respect to commercial or multi-family real estate properties that are consistent with our investment objectives and guidelines and would not adversely affect our status as a REIT. If such investment opportunities are identified, ACM or Mr. Kaufman, as the case may be, will give our credit committee written notice and description of the investment opportunity. Our credit committee, which will consist of Mr. Kaufman, our chief executive officer, Mr. Weber, our executive vice president of structured finance, Mr. Palmier, our executive vice president of asset management and our chief credit officer, may either accept or reject the investment opportunity by a majority vote. If the committee rejects the opportunity, then ACM or Mr. Kaufman, as the case may be, will be able to present the opportunity to our independent directors. If our independent directors, by majority vote, reject the opportunity and allow ACM or one of its affiliates to pursue it, then ACM or the affiliate, as the case may be, will be able to do so on the same terms offered to us. If the terms of the investment opportunity materially change so that the benefits thereof are materially beneficial to ACM than such terms to us would have been under the transaction described in the original offer, then ACM must offer the revised investment opportunity to our credit committee and, if rejected, to our independent directors, who may again accept or reject the opportunity on our behalf. ACM will be able to pursue the revised opportunity on the terms offered to us if our independent directors reject the revised opportunity and approve ACM's pursuit of such opportunity.

During the term of the management agreement, we have agreed not to pursue, and to allow ACM to pursue, among other transactions and investment opportunities, opportunities related to multi-family and commercial

mortgage loans that meet the underwriting and approval guidelines of Fannie Mae, FHA and conduit commercial lending programs secured by first liens on real property.

Mr. Kaufman's Non-Competition Agreement

Pursuant to his non-competition agreement with us, Mr. Kaufman has also agreed that:

- as long as he is serving as our chief executive officer or, during the term of the management agreement and the origination period described below, an affiliate of ACM, he will not pursue structured finance lending opportunities (and will refer those opportunities to us), unless our independent board members affirmatively approve the pursuit by ACM or one of its affiliates of structured finance lending opportunities that they have rejected on our behalf, See "—Rights of First Refusal";

- if he is no longer an affiliate of ACM and, within the first five years of the term of the management agreement, he is no longer our chief executive officer other than by reason of (1) his termination of his position for good reason, (2) our termination of him without cause, or (3) a change of control of ACM (which shall not be deemed to include any public offering of stock by ACM), he will not engage in the structured finance lending business for a period of one year after the earlier of his departure from us or the regular expiration of the one year origination period described below; and

- if there is a change of control of ACM within the first three years of the term of the management agreement, and he is no longer an affiliate of ACM and leaves us without good reason in that three year period, he will not engage in the structured finance lending business for one year after the date of his departure from us.

Mr. Kaufman's non-competition agreement also prohibits Mr. Kaufman from soliciting our customers or employees during its term.

Origination Period

For a period of one year following the expiration or termination of the management agreement due to our notice of non-renewal or termination without cause or our manager's termination for cause:

- our manager and Mr. Kaufman agree to originate structured finance transactions for us, and

- we have granted them the exclusive right to provide these origination services to us.

If we terminate the management agreement for cause (including because of a change in control of the manager), or if the manager terminates or elects not to renew the management agreement without cause, we will be able to accept origination services from others during the origination period.

With respect to each bridge loan and mezzanine loan originated during the origination period, we have agreed with ACM that we will (1) pay ACM an amount equal to 100% of the origination fees paid by the borrower to us, up to 1% of the loan's principal amount, and (2) retain 100% of the origination fees paid by the borrower in excess of 1% of the loan's principal amount.

We, ACM and, through his non-competition agreement, Mr. Kaufman have also agreed that (1) our right of first refusal to pursue all structured finance investment opportunities regarding commercial or multi-family real estate properties that are identified by ACM, Mr. Kaufman (so long as he is an affiliate of ACM) or their affiliates and (2) ACM's right of exclusivity regarding Fannie Mae, FHA and conduit commercial lending programs will each continue to apply during the origination period.

If such structured finance investment opportunities are identified during the origination period, ACM and, so long as he is an affiliate of ACM, Mr. Kaufman will give our credit committee written notice and description of the investment opportunity. Our credit committee will be able to either accept or reject the investment opportunity. If the committee rejects the opportunity, then ACM or Mr. Kaufman, as the case may be, will be able to present the

opportunity to our independent directors. If our independent directors, by majority vote, reject the opportunity on behalf of us and approve ACM's pursuit of that opportunity, then ACM may pursue the opportunity on the same terms offered to us. If the terms of the investment opportunity materially change, then ACM will be able to offer the revised investment opportunity to our credit committee and, if rejected, to our independent directors, who will be able to again be able to accept or reject the opportunity on behalf of us. ACM will be able to pursue the opportunity on the terms offered to us, if our independent directors reject the revised opportunity and approve ACM's pursuit of such opportunity.

MANAGEMENT

Our Directors and Executive Officers

Our board of directors consists of seven directors, four of whom are independent directors. See "—Corporate Governance— Board of Directors and Committees." Pursuant to our charter, the board of directors is divided into three classes of directors. The current terms of the Class I, Class II and Class III directors will expire in 2004, 2005 and 2006, respectively. Upon the expiration of their current terms, directors of each class will be elected to serve a term of three years and until their successors are elected and qualify each year and one class of directors will be elected by the stockholders. The following table sets forth certain information about our directors and executive officers.

Name	Age	Position with Us	Class
Ivan Kaufman	42	Chairman of the Board of Directors, Chief Executive Officer and President	Class II
Frederick C. Herbst	46	Chief Financial Officer and Treasurer	
John C. Kovarik	44	Chief Credit Officer	
Daniel M. Palmier	42	Executive Vice President—Asset Management	
Fred Weber	42	Executive Vice President—Structured Finance	
Jonathan A. Bernstein	57	Independent Director	Class I
William Helmreich	58	Independent Director	Class III
C. Michael Kojaian	41	Independent Director	Class II
Melvin F. Lazar	64	Independent Director	Class II
Walter K. Horn	60	General Counsel, Secretary and Director	Class III
Joseph Martello	48	Director	Class I

Information for each of our executive officers and directors is set forth below. For information regarding Messrs. Kaufman, Herbst and Horn, see "Our Manager and the Management Agreement— Officers of Our Manager."

John C. Kovarik. Mr. Kovarik was hired to serve as our chief credit officer in October 2003. From 1997 until October 2003, Mr. Kovarik was Senior Vice President and Chief Credit Officer of RER Resources, a commercial real estate consulting, underwriting and asset management services provider based in Virginia. Mr. Kovarik has over twenty years of experience in credit, financial analysis and commercial real estate underwriting for various types of commercial properties.

Daniel M. Palmier. Mr. Palmier has served as our executive vice president of asset management since June 2003. He also continues to provide services to ACM in his capacity as a continuing member of ACM's executive committee. Since 1997, he has been a member of ACM's executive committee. From 1997 until the consummation of the original offering he directed ACM's asset management group. Before joining ACM in 1997, Mr. Palmier was a vice president with Lehman Brothers Holdings Inc., where he was involved with asset management, restructuring, refinancing, development, leasing and disposition of commercial, retail and residential properties and mortgages. Mr. Palmier, a certified public accountant, has more than 18 years experience in various aspects of real estate management and practice.

Fred Weber. Mr. Weber has served as our executive vice president of structured finance since June 2003. He also continues to provide services to ACM in his capacity as a continuing member of ACM's executive committee. Mr. Weber was employed by ACM from May 1999 until the consummation of the original offering. At ACM, Mr. Weber had been responsible for overseeing ACM's structured finance and principal transaction groups.

He has been involved in the mortgage banking industry for more than 16 years and has extensive real estate finance and acquisition experience. Mr. Weber is a member of the real estate finance committee of the real estate board of New York. Prior to joining ACM, Mr. Weber was a partner and co-head of the real estate department with Kronish, Lieb, Weiner & Hellman. Previously, Mr. Weber was a partner with the law firm of Weil, Gotschal & Manges.

Jonathan A. Bernstein. Mr. Bernstein has served as one of our directors since June 2003. Mr. Bernstein is of counsel at Pryor, Cashman, Sherman & Flynn, where he is head of the real estate department, specializing in finance and focusing on real estate investment trusts and structured financing involving real estate. Mr. Bernstein joined Pryor Cashman in 1993. He serves as an advisor to REITs and investment banks in the real estate area. Mr. Bernstein is also the vice chairman of TractManager LLC, an internet based software company, with offices in Saddle Brook, New Jersey and Chattanooga, Tennessee, specializing in contract management in the health care area.

William Helmreich. Dr. Helmreich has served as one of our directors since June 2003. Dr. Helmreich is the founder, and since 1980, owner and president of Byron Research and Consulting, a market research firm specializing in financial research, political polling, legal consulting, and issues relating to food products and real estate. He is chairman for Academic Affairs for North Shore Hebrew Academy, a member of the Board of Transaction Inc., as well as other not for profit boards, and was, for many years, a senior vice president of Good Earth Teas.

C. Michael Kojaian. Mr. Kojaian has served as one of our directors since June 2003. Mr. Kojaian is the chief operating officer of the Kojaian group of companies, a national multi-faceted real estate development investment and asset management organization. Before joining Kojaian in 1998, Mr. Kojaian was chairman of the Board of Grubb & Ellis. Prior to that, Mr. Kojaian was Chairman of Dott Industries, a specialized automotive manufacturer. Mr. Kojaian is a member if the board of directors of Flagstar Bank, Grubb & Ellis and the United States President's Export Council.

Melvin F. Lazar. Mr. Lazar has served as one of our directors since his appointment in November 2003. Mr. Lazar is the founder of Lazar Levine & Felix LLP, certified public accountants. Mr. Lazar specialized in business valuations and merger and acquisition activities. Mr. Lazar serves on the Board of Directors of Enzo Biochem, Inc., a publicly-held biotechnology company, Active Media Services, Inc., a privately-held corporate barter company, and CECO Environmental Corp., a publicly-held provider of innovative solutions to industrial ventilation and air quality problems.

Joseph Martello. Mr. Martello has served as one of our directors since June 2003. Mr. Martello is currently chief operating officer of Arbor Management, LLC, the managing member of ACM. From 1995 to 1999, Mr. Martello was chief financial officer of ACM. From 1990 to 1995, Mr. Martello was the chief financial officer of Arbor National Holdings, Inc. Prior to that, he was a senior manager with the international accounting and consulting firm of Ernst & Young for eleven years. Mr. Martello is a member of the American Institute of Certified Public Accountants and the New York State Society of Certified Public Accountants where he is a former executive member of the Board of Directors of the Suffolk County Chapter.

Corporate Governance—Board of Directors and Committees

Our business is ultimately managed through the oversight and direction of our board of directors, which has established investment guidelines for ACM to follow in its day to day management of our business. At least a majority of our board of directors are "independent," with independence being defined in our charter, and are nominated by our nominating/corporate governance committee.

Our board consists of seven directors, three of whom are affiliated with ACM, Messrs. Kaufman, Martello and Horn, and four of whom are "independent" directors, Messrs. Bernstein, Kojaian and Lazar and Dr. Helmreich. The directors keep informed about our business at meetings of the board and its committees and through supplemental reports and communications. Our independent directors expect to meet regularly in executive sessions without the presence of our corporate officers.

Our board has established four committees, the principal functions of which are briefly described below.

Audit Committee

Our board of directors has established an audit committee, which is composed of three of our independent directors, Messrs. Bernstein, Lazar and Dr. Helmreich. Mr. Lazar serves as chairman of the audit committee. The audit committee assists the board in overseeing (1) our accounting and financial reporting processes; (2) the integrity and audits of our consolidated financial statements; (3) our compliance with legal and regulatory requirements; (4) the qualifications and independence of our independent auditors; and (5) the performance of our internal and independent auditors.

Compensation Committee

Our board of directors has established a compensation committee, which is composed of Dr. Helmreich and Mr. Bernstein. Dr. Helmreich serves as chairman of the compensation committee. The principal functions of the compensation committee will be to (1) evaluate the performance of our officers, (2) review the compensation payable to our officers, (3) evaluate the performance of ACM, (4) review the compensation and fees payable to ACM under our management agreement and (5) administer the issuance of any stock issued to our employees or, the employees of ACM who provide services to us.

Nominating/Corporate Governance Committee

Our board of directors has established a nominating/corporate governance committee, which is composed of Dr. Helmreich and Mr. Bernstein. Dr. Helmreich serves as chairman of the nominating/corporate governance committee. The nominating/corporate governance committee will be responsible for seeking, considering and recommending to the board qualified candidates for election as directors and recommending a slate of nominees for election as directors at the annual meeting. It will also periodically prepare and submit to the board for adoption the committee's selection criteria for director nominees. It will review and make recommendations on matters involving general operation of the board and our corporate governance, and annually will recommend to the board nominees for each committee of the board. In addition, the committee annually facilitates the assessment of the board of directors' performance as a whole and of the individual directors and reports thereon to the board.

Independent Director Committee

Our board of directors has established an independent director committee, which is composed of all of our independent directors, Messrs. Bernstein, Kojaian and Lazar and Dr. Helmreich. The independent director committee is responsible for considering and voting upon matters as to which the board of directors determines ACM or its affiliates (other than us or our subsidiaries) or any of our directors (other than an independent director) or officers has a conflict of interest, including the approval of transactions between us and ACM.

Director Compensation

Each of our independent directors are paid a director's fee of $25,000 per year. Each director who serves as a committee chairman of the audit, compensation or nominating/corporate governance committee is paid an additional fee of $3,000. Each director is also paid a fee of $2,000 for each board or committee meeting that he or she attends. Each director is also paid a fee of $1,000 for each telephone board or committee meeting that he attends. In addition, we reimburse all directors for reasonable out of pocket expenses incurred in connection with their services on the board of directors.

Our stock incentive plan provides for grants of restricted stock and other equity based awards with respect to our common stock. On July 1, 2003, Messrs. Bernstein, Kojaian, Martello and Dr. Helmreich each received 1,000 shares of our restricted common stock. Upon their appointment to the board, Messrs. Horn and Lazar each received 1,000 shares of our restricted common stock. Two-thirds of the restricted stock granted to these directors vested immediately upon the date of grant and the remaining one-third will vest ratably over three years from the date of grant.

Executive Compensation

Because our management agreement provides that our manager assumes principal responsibility for managing our affairs, certain of our executive officers, who are employees of our manager, do not receive compensation from us for serving as our executive officers. However, in their capacities as officers or employees of our manager, or its affiliates, they devote such portion of their time to our affairs as is required for the performance of the duties of our manager under the management agreement. Mr. Ivan Kaufman, our chairman of the board of directors, president and chief executive officer serves as the chairman and chief executive officer of ACM. Mr. Frederick C. Herbst, our chief financial officer, also serves as chief financial officer of our manager. Walter Horn, our secretary and general counsel also serves as secretary and general counsel of ACM. Each of Messrs. Kaufman, Herbst and Horn receive their compensation from our manager.

On July 1, 2003, we granted Mr. Kaufman and Mr. Herbst, 120,000 shares and 4,000 shares, respectively, of restricted stock pursuant to our stock incentive plan, two-thirds of which vested immediately and the remaining one-third of which will vest ratably over three years. On November 5, 2003, we granted Mr. Horn 1,000 shares of restricted stock pursuant to our stock incentive plan with the same vesting schedule. Our manager has informed us that, because the services to be performed by its officers or employees in their capacities as such is not performed exclusively for us, it cannot segregate and identify that portion of the compensation awarded to, earned by or paid to our executive officers by the manager that relates solely to their services to us.

Three of our officers, Mr. Fred Weber, our executive vice president of structured finance, Mr. Daniel M. Palmier, our executive vice president of asset management and Mr. John C. Kovarik, our chief credit officer, are employed and paid directly by us. Each of Mr. Weber and Mr. Palmier receive annual compensation of $360,000, plus a bonus to be determined at the discretion of our board of directors, which will not exceed $140,000 per year. On July 1, 2003, we granted each of Messrs. Palmier and Weber 7,000 shares of restricted stock pursuant to our stock incentive plan, two-thirds of which vested immediately and the remaining one-third of which will vest ratably over three years. Mr. Kovarik receives annual compensation of $150,000 plus a bonus to be determined at the discretion of our board of directors, which will not exceed $75,000 per year. We began compensating our employee executive officers at the annual rates set forth above upon the commencement of our operations on July 1, 2003.

Mr. Kaufman's Non-Competition Agreement

Pursuant to his non-competition agreement with us, Mr. Kaufman has also agreed:

- not to pursue any structured finance investment opportunities, except if our independent board members affirmatively approve the pursuit by ACM or one of its affiliates of structured finance opportunities that they have rejected on our behalf;
- if he is no longer an affiliate of ACM and, within the first five years of the term of the management agreement, he is no longer our chief executive officer other than by certain reasons, he will not engage in the structured finance lending business for a period of one year after the earlier of his departure from us or the regular expiration of the one year origination period; and
- if there is a change of control of ACM within the first three years of the term of the management agreement, and he is no longer an affiliate of ACM and leaves us without good reason in that three year period, he will not engage in the structured finance lending business for one year after the date of his departure from us.

Mr. Kaufman's non-competition agreement also prohibits Mr. Kaufman from soliciting our customers or employees during its term. See "Our Manager and the Management Agreement—Mr. Kaufman's Non Competition Agreement."

Stock Incentive Plan

We have adopted the Arbor Realty Trust, Inc. 2003 Omnibus Stock Incentive Plan, referred to in this prospectus as the stock incentive plan, to provide incentives to attract and retain the highest qualified directors, officers, employees, advisors, consultants and other personnel, including our manager and employees of our manager. The stock incentive plan is administered by our full board of directors or a committee appointed by our board of directors.

The stock incentive plan permits the granting of restricted stock awards. Under the stock incentive plan, 185,000 shares of common stock are reserved for issuance pursuant to restricted stock awards, subject to adjustment upon certain corporate transactions, and 147,500 restricted shares were issued upon consummation of the original offering. The initial awards were made to each of our initial directors, our chief executive officer, our chief financial officer, certain of our employees and certain employees of our manager who provide services to us. The remaining shares were reserved for issuance of restricted stock awards in the future. In addition, 1,000 restricted shares were issued to each of Messrs. Horn and Lazar upon their appointment to the board of directors.

A restricted stock award is an award of shares of common stock that is subject to restrictions on transferability and such other restrictions, if any, as our board of directors or committee may impose at the date of grant. Of the shares subject to the initial awards, two-thirds vested immediately and one-third will vest ratably over three years. Future grants of restricted stock will be subject to vesting schedules as determined by our board of directors or the committee. The restrictions may lapse separately or in combination at such times, under such circumstances, including, without limitation, a specified period of employment or the satisfaction of pre-established criteria, in such installments or otherwise, as our board of directors or a committee of our board of directors may determine. Except to the extent restricted under the award agreement relating to the restricted stock, a participant granted restricted stock has all of the rights of a stockholder, including, without limitation, the right to vote and the right to receive dividends on the restricted shares. Although dividends are paid on all restricted stock, whether or not vested, at the same rate and on the same date as on shares of our common stock, holders of restricted stock are prohibited from selling such shares until they vest.

Our board of directors may amend, alter or discontinue the stock incentive plan, but cannot take any action that would impair the rights of a participant without such participant's consent. To the extent necessary and desirable, the board of directors must obtain approval of the stockholders, for any amendment that would:

- other than through adjustment as provided in the stock incentive plan, increase the total number of shares of our common stock reserved for issuance under the stock incentive plan; or

- change the class of officers, directors, employees, consultants and advisors eligible to participate in the stock incentive plan.

Our board of directors (or a committee appointed by our board of directors to act as administrator of the stock incentive plan) may amend the terms of any award granted under the stock incentive plan, prospectively or retroactively, but, generally may not impair the rights of any participant without his or her consent.

REGISTRATION RIGHTS AND LOCK-UP AGREEMENTS

In accordance with a registration rights agreement that we entered into with JMP Securities in connection with the original offering, we have filed a shelf registration statement, of which this prospectus is a part, covering the resale from time to time of the offered securities by the selling stockholders. The registration rights agreement is described below. The summary of the registration rights agreement is not complete and is subject to and qualified in its entirety by reference to the registration rights agreement, a copy of which is filed as an exhibit to the registration statement of which this prospectus is a part.

Under our registration rights agreement with JMP Securities, we agreed to file with the SEC by December 31, 2003, the shelf registration statement, of which this prospectus forms a part, providing for resale of the offered securities pursuant to Rule 415 under the Securities Act from time to time by the holders of the Offered Securities. We must use our best efforts to cause the shelf registration statement to become effective by December 31, 2003, but in no case later than June 30, 2004.

We have agreed to maintain the effectiveness of the shelf registration statement until the first to occur of:

- the disposition of all offered securities under a registration statement or pursuant to Rule 144;
- the date on which the offered securities are saleable under Rule 144(k) under the Securities Act;
- the date that is two years after the effective date of the shelf registration statement; or
- the date on which the offered securities are sold to us.

We would be obligated to pay additional dividends to the holders of securities that are eligible to be registered under the registration rights agreement if:

- we had not filed either a registration statement on the appropriate form under the Securities Act providing for the initial public offering of our common stock, referred to as an IPO registration statement, or the shelf registration statement, with the Securities and Exchange Commission by December 31, 2003;
- an IPO registration statement is filed with the Securities and Exchange Commission but is not declared effective by June 30, 2004;
- after the earlier of the withdrawal or abandonment of the offering pursuant to the IPO registration statement, we have not filed the shelf registration statement with the SEC prior to the later of December 31, 2002 and 30 days after such withdrawal or abandonment;
- a sale of our common stock pursuant to an IPO registration statement has not taken place and our shelf registration statement has not been declared effective by June 30, 2004;
- a sale of our common stock pursuant to an IPO registration statement takes place, after which we are still obligated to file the shelf registration statement, and we do not file the shelf registration statement within 180 days after the completion of the sale of common stock under the IPO registration statement or that shelf registration is not declared effective within 80 days of its filing; or
- after our IPO registration statement or our shelf registration statement, as applicable, has been declared effective, it ceases to be effective or usable in connection with resales during a period in which it is required to be effective without being immediately succeeded by an additional registration statement or a post-effective amendment to our registration statement.

We refer to each of the events listed above as a registration failure. During the first quarter immediately following a registration failure, we would be obligated to pay additional dividends at a rate of $.0625 per share of common stock representing or underlying any registrable security, escalating at the end of such quarter and at the

end of each quarter thereafter by an additional $.0625 per share, up to a maximum rate of $.25 per share per quarter, until the registration failure is cured. The funds needed to pay the additional dividends are required to be allocated and distributed by us by our operating partnership out of its income. We will pay these additional dividends from additional allocations of income and distributions from our operating partnership to which we will be entitled. Pursuant to the operating partnership agreement, ACM, as a holder of operating partnership units will not have a right to receive any additional dividend paid as a result of a registration failure.

We agreed to use our best efforts to list the offered securities on The Nasdaq Stock Market unless we qualify and choose to list the offered securities on the New York Stock Exchange, in which case we agreed to use our best efforts to list the offered securities on the New York Stock Exchange. In connection with the listing of the offered securities, JMP Securities agreed to act as a market maker and use its reasonable efforts to engage additional market makers as may be required under the rules of The Nasdaq Stock Market or the New York Stock Exchange, as applicable, until we complete a subsequent underwritten public offering of our common stock.

Upon an underwritten offering pursuant to a registration statement filed in accordance with the registration rights agreement, holders of our units issued in the original offering agree to the extent requested by us, or an underwriter of our securities, not to sell or otherwise transfer or dispose of any remaining units, shares of common stock or any other securities exchangeable or exercisable for our common stock (other than under such registration statement) during a lock-up period (not to exceed 30 days prior to and 180 days following that offering) to be negotiated between us and the underwriters, subject to certain exceptions and limitations.

Lock-Up Agreements

In connection with the original offering on July 1, 2003, ACM, members of our senior management and board of directors and certain members of the senior management of ACM have agreed not to offer, pledge, sell contract to sell, sell any option or contract to purchase or otherwise transfer or dispose of, directly or indirectly, any shares of our common stock, or any securities convertible into or exercisable for any of our common stock or any right to acquire our common stock, until the earlier of:

- 180 days from the effective date of the shelf registration statement; and
- two years from the consummation of the original offering, subject to certain exceptions.

We also agreed not to offer to sell, contract to sell, or otherwise dispose of, loan, pledge or grant any rights with respect to any shares of our common stock, any options or warrants to purchase any shares of our common stock or any securities convertible into or exercisable for any of our common stock, including our units, for a period of 180 days following the completion of the original offering, which was July 1, 2003, subject to certain exceptions.

JMP Securities, at any time, and without notice, may release all or any portion of the common stock subject to the foregoing lock-up agreements.

CERTAIN RELATIONSHIPS AND RELATED TRANSACTIONS

Conflicts of Interest with Our Manager

At the consummation of the original offering, ACM contributed the majority of its structured finance portfolio and related liabilities to our operating partnership in exchange for 3,146,724 operating partnership units and 629,345 warrants to purchase additional operating partnership units, representing a 28% limited partnership interest in our operating partnership (without giving effect to the exercise of the warrants).

Mr. Ivan Kaufman, our chairman and chief executive officer, is also the chief executive officer of ACM. Mr. Kaufman and the Kaufman entities collectively own 88% of the beneficial equity interest of ACM. Mr. Frederick C. Herbst, our chief financial officer, is also the chief financial officer of ACM. Mr. Herbst owns a 0.5% interest in ACM. Mr. Joseph Martello, one of our directors, currently serves as the chief operating officer of ACM. Mr. Martello owns a 1.3% interest in ACM and is also the sole trustee of the Ivan and Lisa Kaufman Family Trust for the benefit of Mr. Kaufman's family, which owns a 59% interest in ACM, and a co-trustee, along with Mr. Kaufman, of the Ivan Kaufman Grantor Retained Annuity Trust which also owns an equity interest in ACM. Mr. Walter Horn, our secretary and general counsel and one of our directors, currently serves as the general counsel of ACM. Mr. Horn owns a 2.0% interest in ACM.

Mr. Daniel M. Palmier, our executive vice president of asset management, directed ACM's asset management group from 1997 until the consummation of the original offering. Mr. Palmier owns a 0.2% interest in ACM. Mr. Fred Weber, our executive vice president of structured finance, was responsible for overseeing ACM's structured finance and principal transactions group from 1999 until the consummation of the original offering. Mr. Weber owns a 0.9% interest in ACM.

As a result of the relationships described above, certain matters relating to our organization, some of which are discussed below, were not negotiated at arm's length, and their terms may not be as favorable to us as if they were negotiated with an unaffiliated third party.

Formation Transactions

Asset Contribution and Guaranty

ACM contributed the majority of its structured finance portfolio to our operating partnership pursuant to a contribution agreement. The contribution agreement contains representations and warranties concerning the ownership and terms of the structured finance assets it contributed and other customary matters. ACM has agreed to indemnify us and our operating partnership against breaches of those representations and warranties.

At the time of ACM's origination of three investments that it contributed to us on July 1, 2003, each of the property owners granted ACM participating interests that share in a percentage of the cash flows of the underlying properties. ACM also made one of the contributed bridge loans to a joint venture in which it had a 50% non-controlling interest. Upon contribution of the structured finance assets, ACM retained these participating and joint venture interests. In connection with its asset contribution, ACM agreed that if any portion of the outstanding amount of any of these four contributed assets is not paid at the its maturity or repurchase date, ACM will pay us, subject to the limitation described below, the portion of the unpaid amount of the

contributed asset up to the total amount then received by ACM due to the realization of any profits on its retained interests associated with any other of the four contributed assets. ACM will no longer be obligated to make such payments to us when the remaining accumulated principal amount of the four contributed assets, collectively, falls below $5 million and none of the four contributed assets is in default.

ACM Registration Rights

We have granted ACM shelf registration rights, or, if such rights are not available, demand registration rights with respect to shares of our common stock that may be issued upon redemption of operating partnership units. Holders of our operating partnership units are entitled to participate in primary or secondary offerings of our common stock with respect to such shares. We have also agreed to certain restrictions on the registration rights that we may grant to any other holder or prospective holder of our securities without the prior written consent of the holders of the majority of the shares of common stock and common stock equivalents representing or underlying the then outstanding securities that are registrable under the registration rights agreements.

Special Voting Preferred Stock

Each of the approximately 3.1 million operating partnership units received by ACM, as well as each operating partnership unit that may be issued upon exercise of any of the warrants, are, in each case, paired with one share of our special voting preferred stock. Each share of our special voting preferred stock entitles the holder to one vote on all matters submitted to a vote of our stockholders. Therefore, ACM is entitled to a number of votes representing approximately 28% of the voting power of all shares entitled to vote on matters submitted to a vote of our stockholders.

Management and Services Agreements

We and our operating partnership have entered into a management agreement with ACM, pursuant to which ACM provides for the day to day management of our operations. ACM is also required to provide us with a right of first refusal with respect to all structured finance identified by ACM or its affiliates. We have agreed not to pursue, and to allow ACM to pursue, any real estate opportunities other than structured finance transactions. We are required to pay ACM a base management fee and an incentive management fee as well as reimburse ACM for certain of its expenses. See “Our Manager and the Management Agreement” for more information regarding the services ACM provides to us and the fees we pay to ACM.

We and our operating partnership have also entered into a services agreement with ACM pursuant to which our asset management group provides asset management services to ACM. In the event the services provided by our asset management group pursuant to the agreement exceed by more than 15% per quarter the level of activity anticipated by our board of directors, we will negotiate in good faith with our manager an adjustment to our manager’s base management fee under the management agreement, to reflect the scope of the services, the quantity of serviced assets or the time required to be devoted to the services by our asset management group. See “Arbor Realty Trust, Inc.—Operations” and “Our Asset Management Operations.”

Non-Competition Agreement

We have entered into a non-competition agreement with Mr. Kaufman pursuant to which he has agreed not to pursue any structured finance opportunities, unless our independent board members affirmatively approve the pursuit by ACM or one of its affiliates of such opportunities that they have rejected on our behalf. See "Our Manager and the Management Agreement—Mr. Kaufman's Non Competition Agreement."

Benefits Participation Agreement

We have also entered into a benefits participation agreement with ACM, pursuant to which our employees are able to participate in any employee benefit plans maintained by Arbor Management, LLC, ACM's managing member, for the benefit of ACM employees. Arbor Management charges us an amount equal to its cost of providing benefits to each of our employees.

Restricted Stock Grants under Stock Incentive Plan

We granted 147,500 restricted shares of common stock under our stock incentive plan upon consummation of the original offering. The initial awards were made to our directors, officers and certain of our employees and certain employees of our manager who provide services to us. In addition, 1,000 restricted shares were issued to Messrs. Horn and Lazar upon their appointment to the board of directors in November 2003.

Related Party Loans and Investments

ACM has a 50% non-controlling interest in a joint venture, which was formed to acquire, develop and/or sell real estate assets. We currently have a $16.0 million bridge loan outstanding to the joint venture. There is a limited guarantee on the loan of 50% by our chief executive officer and 50% by the key principal of the joint venture. We have agreed to provide the borrower with additional mezzanine financing in the amount of up to $8.0 million. ACM has also agreed to provide a limited guarantee of the principal amount of this bridge loan as described under "# Asset Contribution and Guaranty."

On July 1, 2003, we purchased two mezzanine loans, 130 West 30th Street and The Crossings, and a preferred equity investment, Dutch Village, which collectively represented $13.1 million in assets, based on the assets' June 30, 2003 book value, from ACM. We used $6.7 million of the net proceeds of the original offering and assumed $6.4 million under our credit facilities in order to acquire these investments from ACM.

In June 2003, ACM invested approximately $818,000 in exchange for a 12.5% non-controlling interest in a joint venture, which was formed to acquire, develop and/or sell real estate assets. This investment was purchased by us from ACM in August 2003. On August 1, 2003, we purchased these two mezzanine loans to this joint venture, 80 Evergreen and 930 Flushing Avenue, from ACM for $6 million in cash, which represented the assets combined book value at July 31, 2003. As of September 30, 2003, we had two mezzanine loans totaling $6.0 million outstanding.

ACM contributed four investments to us that are secured by properties in which ACM has a participating or joint venture interest in the borrower. Every transaction entered into between us and an entity in which ACM holds equity interests raises a potential conflict of interest. Conflicts of interest with respect to these investments include, among others, decisions regarding (1) whether to waive defaults of such borrower, (2) whether to foreclose on the investment and (3) whether to permit additional financing on the properties securing our investments other than financing provided by us.

ACM may from time to time provide permanent mortgage loan financing to clients of ours, which will be used to refinance bridge financing provided by us. We and ACM may also make loans to the same borrower or to borrowers that are under common control. Additionally, our policies and those of ACM may require us to enter into intercreditor agreements in situations where loans are made by us and ACM to the same borrower. In addition, we may enter into future transactions with ACM with the approval of our independent directors.

Other Relationships and Related Transactions

Two of our employees, Daniel M. Palmier, our executive vice president of asset management, and Fred Weber, our executive vice president of structured finance, continue to serve on ACM's executive committee and provide services to ACM. Messrs. Palmier and Weber do not receive a salary from ACM, but may receive production payments from ACM for originating loans.

Arbor Management, the managing member of ACM, loaned Mr. Herbst and Mr. Palmier $225,000 and $800,000, respectively, for the purpose of financing a portion of each of their investments in the original offering.

In 2000 and 2001, ACM paid $65,394 and $85,000, respectively, for legal services rendered, to Pryor, Cashman, Sherman & Flynn, where Mr. Jonathan A. Bernstein, who serves as one of our directors, is of counsel.

SECURITY OWNERSHIP OF CERTAIN BENEFICIAL OWNERS AND MANAGEMENT

The following table sets forth certain information regarding the ownership of each class of capital stock by:

- each of our directors;
- each of our executive officers;
- each holder of five percent or more of each class of our capital stock; and
- all of our directors and executive officers as a group.

Unless otherwise indicated, all shares are owned directly and the indicated person has sole voting and investment power. Except as indicated in the footnotes to the table below, the business address of the stockholders listed below is the address of our principal executive office, 333 Earle Ovington Boulevard, Suite 900, Uniondale, New York 11553.

Name	Number of Shares Beneficially Owned(1)	Percent of Class (2)
Arbor Commercial Mortgage, LLC (3)	3,776,136	31.5%
Ivan Kaufman (4)	3,898,136	32.6%
Perry Partners, L.P.	650,000	7.9%
Watershed Capital Institutional Partners, L.P.	513,000	6.3%
Joseph Martello (5)	6,000	*
Jonathan A. Bernstein (6)	1,000	*
William Helmreich (7)	21,000	*
C. Michael Kojaian (8)	1,000	*
Frederick C. Herbst (9)	24,000	*
Daniel M. Palmier (10)	73,750	*
Fred Weber (11)	12,000	*
Walter K. Horn (12)	8,000	*
Melvin F. Lazar (13)	1,000	*
All directors and officers as a group (10 persons)	4,045,886	33.8%

* Less than 1%

(1) Beneficial ownership is determined in accordance with the rules of the SEC and generally includes securities over which a person has voting or investment power and securities that a person has the right to acquire within 60 days of the date hereof. For purposes of the table above, we have also assumed that all units of our operating partnership, Arbor Realty Limited Partnership, held by such person or group of persons are redeemed for common stock (regardless of when such units are redeemable).

At the consummation of the original offering, ACM received 3,146,724 operating partnership units and warrants to purchase an additional 629,345 operating partnership units. Each of these operating partnership units held by ACM is paired with one share of our special voting preferred stock, which is entitled to one vote per share on all matters submitted to our stockholders. Each share of special voting preferred stock will be redeemed and cancelled by us upon the redemption of its paired operating partnership unit for shares of our common stock or cash. As this table assumes that all operating partnership units issued to ACM, including those issuable upon exercise of the warrants issued to ACM, have been redeemed for shares of our common stock, we have assumed that the shares of special voting preferred stock to be held by ACM have been redeemed and cancelled by us.

(2) Shares of common stock subject to options or warrants exercisable within 60 days of the date hereof are deemed to be outstanding for computing the percentage of the person holding such options or warrants but are not deemed outstanding for computing the percentage of any other person. Shares of common stock

issuable upon the redemption of operating partnership units are deemed to be outstanding for computing the percentage of the person holding such operating partnership units but are not deemed outstanding for computing the percentage of any other person.

(3) Includes shares of our common stock issuable upon redemption of the operating partnership units that are issuable upon exercise of warrants held by ACM.

(4) Includes shares of our common stock issuable upon redemption of the operating partnership units held by ACM and subject to warrants held by ACM. Mr. Kaufman and his wife are the sole members of Arbor Management, LLC, the managing member of ACM. The Kaufman entities own an 88% Class A membership interest in ACM. Also includes 2,000 shares of our common stock held by Mr. Kaufman's wife.

(5) Includes 6,000 shares of our common stock, 5,000 of which Mr. Martello purchased in the original offering, and 1,000 of which were granted to him as restricted shares for his services as a director. Mr. Martello holds a 1.3% Class B membership interest in ACM. For purposes of the SEC beneficial ownership rules, the operating partnership units held by ACM are not deemed to be beneficially owned by Mr. Martello.

(6) The address for Mr. Bernstein is 333 Earle Ovington Boulevard, Uniondale NY 11553.

(7) The address for Dr. Helmreich is 333 Earle Ovington Boulevard, Uniondale NY 11553.

(8) The address for Mr. Kojaian is 333 Earle Ovington Boulevard, Uniondale NY 11553.

(9) Includes 24,000 shares of our common stock, 20,000 of which Mr. Herbst purchased in the original offering, and 4,000 of which were granted to him as restricted shares for his services as an executive officer. Mr. Herbst holds a 0.5% Class B membership interest in ACM. For purposes of the SEC beneficial ownership rules, the operating partnership units held by ACM are not deemed to be beneficially owned by Mr. Herbst.

(10) Includes 73,750 shares of our common stock, 66,750 of which Mr. Palmier purchased in the original offering, and 7,000 of which were granted to him as restricted shares for his services as an executive officer. Mr. Palmier holds a 0.2% Class B membership interest in ACM. For purposes of the SEC beneficial ownership rules, the operating partnership units held by ACM are not deemed to be beneficially owned by Mr. Palmier.

(11) Includes 12,000 shares of our common stock, 5,000 of which Mr. Weber purchased in the original offering, and 7,000 of which were granted to him as restricted shares for his services as an executive officer. Mr. Weber holds a 0.9% Class B membership interest in ACM. For purposes of the SEC beneficial ownership rules, the operating partnership units held by ACM are not deemed to be beneficially owned by Mr. Weber.

(12) Includes 8,000 shares of our common stock, 7,000 of which he purchased in the original offering, and 1,000 of which were granted to him as restricted shares for his services as a director. Mr. Horn holds a 2.0% Class B membership interest in ACM. For purposes of the SEC beneficial ownership rules, the operating partnership units held by ACM are not deemed to be beneficially owned by Mr. Horn.

(13) The address for Mr. Lazar is 333 Earle Ovington Boulevard, Uniondale NY 11553.

DESCRIPTION OF STOCK

The following summary of the material provisions of our stock does not purport to be complete and is subject to and qualified in its entirety by reference to the Maryland General Corporation Law, or MGCL and our charter and bylaws, copies of which are available upon request. See "Available Information."

General

We were formed under the laws of the State of Maryland. Rights of our stockholders are governed by the MGCL, our charter and our bylaws.

Authorized Stock

Our charter provides that we may issue up to 500 million shares of common stock, par value $.01 per share, and 100 million shares of preferred stock, par value $.01 per share. There are approximately 8.2 million shares of common stock issued and outstanding and approximately 3.1 million shares of preferred stock issued and outstanding.

Under Maryland law, our stockholders are generally not liable for our debts or obligations.

Common Stock

All shares of our common stock offered hereby are duly authorized and will be validly issued, fully paid and nonassessable. Subject to the preferential rights of any other class or series of stock and to the provisions of the charter regarding the restrictions on transfer of stock, holders of shares of our common stock are entitled to receive dividends on such stock when, as and if authorized by our board of directors out of funds legally available therefor and declared by us and to share ratably in the assets of our company legally available for distribution to our stockholders in the event of our liquidation, dissolution or winding up after payment of or adequate provision for all known debts and liabilities of our company, including the preferential rights on dissolution of any class or classes of preferred stock.

Subject to the provisions of our charter regarding the restrictions on transfer of stock, each outstanding share of common stock entitles the holder to one vote on all matters submitted to the vote of stockholders, including the election of directors. There is no cumulative voting in the election of our board of directors, which means that the holders of a majority of the outstanding shares of our common stock can elect all of the directors then standing for election and the holders of the remaining shares of our common stock are not able to elect any directors.

Holders of shares of our common stock have no preference, conversion, exchange, sinking fund, redemption or appraisal rights and have no preemptive rights to subscribe for any securities of our company. Subject to the provisions of the charter regarding the restrictions on transfer of stock, shares of our common stock have equal dividend, liquidation and other rights.

Under the MGCL, a Maryland corporation generally cannot dissolve, amend its charter, merge, sell all or substantially all of its assets, engage in a statutory share exchange or engage in similar transactions outside the ordinary course of business unless declared advisable by the board of directors and approved by the affirmative vote of stockholders entitled to cast at least two-thirds of the votes entitled to be cast on the matter unless a lesser percentage (but not less than a majority of all of the votes entitled to be cast on the matter) is set forth in the corporation's charter. Our charter, however, provides for approval of these matters, except with respect to certain charter amendments, by an affirmative vote of stockholders entitled to cast at least a majority of the votes entitled to be cast on the matter.

Our charter authorizes our board of directors to increase the number of shares of authorized common stock, to issue additional authorized but unissued shares of our common stock, to reclassify any unissued shares of our common stock into other classes or series of classes of stock and to establish the number of shares in each class or series and to set the preferences, conversion and other rights, voting powers, restrictions, limitations as to dividends

or other distributions, qualifications or terms or conditions of redemption for each such class or series without stockholder approval.

Preferred Stock

Our charter authorizes our board of directors to increase the number of authorized shares of preferred stock, to issue additional authorized but unissued shares of our preferred stock, to classify or reclassify any unissued shares of preferred stock and to reclassify any previously classified but unissued shares of any series without stockholder approval. Prior to issuance of shares of each series, our board of directors is required by the MGCL and our charter to set the terms, preferences, conversion or other rights, voting powers, restrictions, limitations as to dividends or other distributions, qualifications and terms or conditions of redemption for each such series. Thus, our board of directors could authorize the issuance of shares of preferred stock with terms and conditions that could have the effect of delaying, deferring or preventing a transaction or a change of control of our company that might involve a premium price for holders of our common stock or otherwise be in their best interest.

Special Voting Preferred Stock

We, our operating partnership and our manager have entered into a pairing agreement. Pursuant to the pairing agreement, each operating partnership unit issued to ACM in connection with the contribution of the initial assets (including operating partnership units issuable upon the exercise of ACM's warrants for additional operating partnership units) is paired with one share of our special voting preferred stock.

A holder of special voting preferred stock is not entitled to any regular or special dividend payments or other distributions, including any dividend or other distributions declared or paid with respect to shares of our common stock or any other shares of our stock. A holder of shares of special voting preferred stock is only entitled to receive a $.01 distribution per share in the event of our liquidation, dissolution or redemption of the special voting preferred stock.

Each share of special voting preferred stock entitles the holder to one vote on all matters submitted to a vote of our stockholders. The holders of special voting preferred stock have no separate class voting rights, except as specifically provided by our charter. We may not issue any additional shares of special voting preferred stock in the future unless such shares are paired with operating partnership units.

Upon any redemption of an operating partnership unit that is paired with a share of special voting preferred stock in accordance with the redemption provisions of the operating partnership agreement, the share of special voting preferred stock will be redeemed by us and cancelled.

If we complete a merger transaction in connection with which the holders of operating partnership units either continue to hold interests in our operating partnership or receive partnership interests or other securities of another operating partnership in an "umbrella partnership" REIT structure, then the holders of special voting preferred stock are generally entitled to vote separately as a class on such a merger transaction, unless they receive a voting security comparable to the special voting preferred stock.

Warrants

The warrants comprising part of the units were issued pursuant to a warrant agreement dated as of July 1, 2003 between us and American Stock Transfer & Trust Company who acts as warrant agent. The following is a brief summary of certain provisions of the warrant agreement and does not purport to be complete and is qualified in its entirety by reference to the warrant agreement including the definitions of certain terms used below.

Each unit consists of five shares of our common stock, par value $.01 per share, and one warrant that has an initial exercise price of $15 and entitles the holder to purchase one share of our common stock subject to certain anti-dilution adjustments. The warrants are exercisable until 5:00 p.m. New York City time on July 1, 2005. The warrants comprising the units do not become exerciseable, detachable and freely tradeable until after the shares of the common stock comprising the units are registered under the Securities Act and either listed on a national

securities exchange or The Nasdaq Stock Market, Inc. The shares of common stock and the warrants comprising the units may not be traded separately until such listing.

The warrants, held in certificated form, may be exercised by surrendering to the warrant agent the definitive warrant certificates evidencing such warrants, with the accompanying form of election to purchase properly completed and executed, together with payment of the exercise price. Payment of the exercise price may be made (1) in the form of cash or by certified or official bank check payable to the order of us, or (2) by surrendering additional warrants or shares of common stock for cancellation to the extent we may lawfully accept shares of common stock, with the value of such shares of common stock for such purpose equal to the average trading price of the common stock during the 20 trading days preceding the date surrendered and the value of the warrants to equal the difference between such value of a share of common stock and the exercise price.

No fractional shares of common stock will be issued upon exercise of the warrants. In lieu of any fractional shares of our common stock that would otherwise be issuable upon exercise of the warrants, we will pay the holders the equivalent cash value of the fractional warrants. The holders of the warrants have no right to vote on matters submitted to our stockholders and have no right to receive dividends. The holders of the warrants not yet exercised are not entitled to share in our assets in the event of our liquidation or dissolution, or the winding up of our affairs.

The exercise price of the warrants will be appropriately adjusted if we (1) pay a dividend or make a distribution on our common stock in shares of our common stock or make certain other dividends or distributions on our common stock (other than cash dividends out of funds legally available therefore), (2) subdivide our outstanding shares of common stock into a greater number of shares, (3) combine our outstanding shares of common stock into a smaller number of shares or (4) issue by reclassification of our common stock any other shares of our stock.

In the case of our consolidation or merger in which we are not the surviving entity, or our liquidation or the sale of all or substantially all of our assets to another person or entity, each warrant will thereafter be deemed exercised for the right to receive the kind and amount of shares of stock or other securities or property to which such holder would have been entitled as a result of such consolidation, merger, or sale had the warrants been exercised immediately prior thereto, less the exercise price.

Power to Increase Authorized Stock and Issue Additional Shares of our Common Stock and Preferred Stock

Our board of directors has the power to increase the number of authorized shares of our preferred and common stock, issue additional authorized but unissued shares of our common stock or preferred stock and to classify or reclassify unissued shares of our common stock or preferred stock and thereafter to cause us to issue such classified or reclassified shares of stock without further action by our stockholders, unless stockholder consent is required by applicable law or the rules of any stock exchange or automated quotation system on which our securities may be listed or traded. We believe that this power provides us with flexibility in structuring possible future financings and acquisitions and in meeting other business needs that might arise. Although our board of directors does not intend to do so, it could authorize us to issue a class or series that could, depending upon the terms of the particular class or series, delay, defer or prevent a transaction or a change of control of our company that might involve a premium price for our stockholders or otherwise be in their best interest.

Restrictions on Transfer

In order for us to qualify as a REIT under the Internal Revenue Code, our stock must be beneficially owned by 100 or more persons during at least 335 days of a taxable year of 12 months (other than the first year for which an election to be a REIT has been made) or during a proportionate part of a shorter taxable year. Also, not more than 50% of the value of the outstanding shares of stock may be owned, directly or indirectly, by five or fewer individuals (as defined in the Internal Revenue Code to include certain entities) during the last half of a taxable year (other than the first year for which an election to be a REIT has been made).

Our charter contains restrictions on the ownership and transfer of our common stock that are intended to assist us in complying with these requirements and continuing to qualify as a REIT as well as to assist us in complying with ERISA (discussed below in “ERISA Considerations”). The relevant sections of our charter provide

that subject to the exceptions described below, no person or entity may beneficially own, or be deemed to own by virtue of the applicable constructive ownership provisions of the Internal Revenue Code, more than 9.6% (by value or by number of shares, whichever is more restrictive) of the outstanding shares of our common stock or 9.6% by value of our outstanding capital stock. We refer to this restriction as the "ownership limit." Our charter provisions further prohibit any person from beneficially or constructively owning shares of our stock that would result in us being "closely held" under Section 856(h) of the Internal Revenue Code or otherwise cause us to fail to qualify as a REIT.

The constructive ownership rules under the Internal Revenue Code are complex and may cause stock owned actually or constructively by a group of related individuals and/or entities to be owned constructively by one individual or entity. As a result, the acquisition of less than 9.6% of our outstanding common or capital stock (or the acquisition of an interest in an entity that owns, actually or constructively, less than 9.6% of our outstanding common or capital stock) by an individual or entity, could, nevertheless cause that individual or entity, or another individual or entity, to own constructively in excess of these limits on our outstanding stock and thereby subject the stock to the applicable ownership limit.

Our board of directors may, in its sole discretion, waive the ownership limit with respect to a particular stockholder if it:

- determines that any exemption from the ownership limit will not jeopardize our status as a REIT under the Internal Revenue Code; and

- determines that such stockholder does not and will not own, actually or constructively, an interest in a tenant of ours (or a tenant of any entity owned in whole or in part by us) that would cause us to own, actually or constructively, more than a 9.9% interest (as set forth in Section 856 (d) (2) (B) of the Internal Revenue Code) in such tenant or that any such ownership would not cause us to fail to qualify as a REIT under the Internal Revenue Code.

As a condition of our waiver, our board of directors may require an opinion of counsel or an IRS ruling satisfactory to our board of directors, and/or representations or undertakings from the applicant with respect to preserving our REIT status. Additionally, the new ownership limit may not allow five or fewer stockholders to beneficially own more than 50% in value of our outstanding capital stock. Our charter provisions further prohibit:

- any person from beneficially or constructively owning shares of our stock that would result in us being closely held under Section 856(h) of the Internal Revenue Code or otherwise cause us to fail to qualify as a REIT; and

- any person from transferring shares of our stock after January 29, 2004 if such transfer would result in shares of our stock being beneficially owned by fewer than 100 persons (determined without reference to any rules of attribution).

Any person who acquires or attempts or intends to acquire beneficial or constructive ownership of shares of our common stock that will or may violate any of the foregoing restrictions on transferability and ownership will be required to give notice immediately to us and provide us with such other information as we may request in order to determine the effect of such transfer on our status as a REIT. The foregoing provisions on transferability and

ownership will not apply if our board of directors determines that it is no longer in our best interests to attempt to qualify, or to continue to qualify, as a REIT.

Pursuant to our charter, if any purported transfer of our stock or any other event would otherwise result in any person violating the ownership limits or such other limit as permitted by our board of directors, then any such purported transfer will be ineffective as to that number of shares in excess of the applicable ownership limit (rounded up to the nearest whole). That number of shares in excess of the ownership limit will be automatically transferred to, and held by, a trust for the exclusive benefit of one or more charitable organizations selected by us. A person or entity that becomes subject to the ownership limit by virtue of a violative transfer that results in a transfer to a trust, as set forth above, is referred to as a "purported beneficial transferee" if, had the violative transfer been effective, the person or entity would have been a record owner and beneficial owner or solely a beneficial owner of our common stock, or is referred to as a "purported record transferee" if, had the violative transfer been effective, the person or entity would have been solely a record owner of our common stock. The automatic transfer will be effective as of the close of business on the business day prior to the date of the violative transfer or other event that results in a transfer to the trust. Any dividend or other distribution paid to the purported record transferee, prior to our discovery that the shares had been automatically transferred to a trust as described above, must be repaid to the trustee upon demand for distribution to the beneficiary of the trust. If the transfer to the trust as described above is not automatically effective, for any reason, to prevent violation of the applicable ownership limit or as otherwise permitted by our board of directors, then our charter provides that the transfer of the excess shares will be void.

Shares of our stock transferred to the trustee are deemed offered for sale to us, or our designee, at a price per share equal to the lesser of (1) the price paid by the purported record transferee for the shares (or, if the event that resulted in the transfer to the trust did not involve a purchase of such shares of our stock at market price, the last reported sales price reported on a national securities exchange or the Nasdaq Stock Market on the trading day immediately preceding the day of the event that resulted in the transfer of such shares of our stock to the trust if the shares are then traded) and (2) the market price on the date we, or our designee, accepts such offer. We have the right to accept such offer until the trustee has sold the shares of our common stock held in the trust pursuant to the clauses discussed below. Upon a sale to us, the interest of the charitable beneficiary in the shares sold terminates and the trustee must distribute the net proceeds of the sale to the purported record transferee and any dividends or other distributions held by the trustee with respect to such common stock will be paid to the charitable beneficiary.

If we do not buy the shares, the trustee must, within 20 days of receiving notice from us of the transfer of shares to the trust, sell the shares to a person or entity designated by the trustee who could own the shares without violating the ownership limits or as otherwise permitted by our board of directors. After that, the trustee must distribute to the purported record transferee an amount equal to the lesser of (1) the price paid by the purported record transferee or owner for the shares (or, if the event that resulted in the transfer to the trust did not involve a purchase of such shares at market price, the last reported sales price reported on a national securities exchange or the Nasdaq Stock Market on the trading day immediately preceding the relevant date if the shares are then traded), and (2) the sales proceeds (net of commissions and other expenses of sale) received by the trust for the shares. The purported beneficial transferee or purported record transferee has no rights in the shares held by the trustee.

The trustee shall be designated by us and shall be unaffiliated with us and with any purported record transferee or purported beneficial transferee. Prior to the sale of any excess shares by the trust, the trustee will receive, in trust for the beneficiary, all dividends and other distributions paid by us with respect to the excess shares, and may also exercise all voting rights with respect to the excess shares.

Subject to Maryland law, effective as of the date that the shares have been transferred to the trust, the trustee shall have the authority, at the trustee's sole discretion, to:

- rescind as void any vote cast by a purported record transferee prior to our discovery that the shares have been transferred to the trust; and
- recast the vote in accordance with the desires of the trustee acting for the benefit of the beneficiary of the trust.

However, if we have already taken irreversible corporate action, then the trustee may not rescind or recast the vote.

Any beneficial owner or constructive owner of shares of our stock and any person or entity (including the stockholder of record) who is holding shares of our stock for a beneficial owner must, on request, provide us with a completed questionnaire containing the information regarding their ownership of such shares, as set forth in the applicable Treasury regulations. In addition, any person or entity that is a beneficial owner or constructive owner of shares of our stock and any person or entity (including the stockholder of record) who is holding shares of our stock for a beneficial owner or constructive owner shall, on request, be required to disclose to us in writing such information as we may request in order to determine the effect, if any, of such stockholder's actual and constructive ownership of shares of our common stock on our status as a REIT and to ensure compliance with the ownership limit, or as otherwise permitted by our board of directors.

All certificates representing shares of our stock bear a legend referring to the restrictions described above.

These ownership limits could delay, defer or prevent a transaction or a change of control of our company that might involve a premium price for our common stock or otherwise be in the best interest of our stockholders.

Transfer Agent and Registrar

The transfer agent and registrar for our units, common stock and warrants is American Stock Transfer & Trust Company.

SECURITIES ELIGIBLE FOR FUTURE SALE

As of the date of this prospectus, we have 8,199,567 shares of our common stock outstanding, 1,610,000 shares authorized for issuance upon exercise of the warrants underlying our units for shares of common stock, and 3,776,069 shares of our common stock authorized for issuance upon redemption of operating partnership units (including 629,345 operating partnership units issuable upon exercise of 629,345 warrants for additional operating partnership units).

In general, under Rule 144 as currently in effect, if one year has elapsed since the date of acquisition of restricted securities from us or any of our affiliates, the holder of such restricted securities can sell such securities; provided that the number of securities sold by such person within any three month period cannot exceed the greater of:

- 1 % of the total number of securities then outstanding, or
- the average weekly trading volume of our securities during the four calendar weeks preceding the date on which notice of the sale is filed with the SEC.

Sales under Rule 144 also are subject to certain manner of sale provisions, notice requirements and the availability of current public information about us. If two years have elapsed since the date of acquisition of restricted securities from us or any of our affiliates and the holder is not one of our affiliates at any time during the three months preceding the proposed sale, such person can sell such securities in the public market under Rule 144(k) without regard to the volume limitations, manner of sale provisions, public information requirements or notice requirements.

We have agreed not to offer to sell, contract to sell, or otherwise dispose of, loan, pledge or grant any rights with respect to any shares of our common stock, any options or warrants to purchase any shares of our common stock or any securities convertible into or exercisable for any of our common stock, including our units, for a period of 180 days following the completion of the original offering on July 1, 2003, subject to certain exceptions. Members of our senior management and directors, ACM and certain members of the senior management of ACM have agreed with us not to offer, pledge, sell contract to sell, sell any option or contract to purchase or otherwise transfer or dispose of, directly or indirectly, any shares of our common stock, or any securities convertible into or exercisable for any of our common stock or any right to acquire our common stock, until the earlier of:

- 180 days from the effective date of the shelf registration statement; and
- two years from the consummation of the original offering, subject to certain exceptions.

JMP Securities, at any time, and without notice, may release all or any portion of the common stock subject to the foregoing lock-up agreements.

Registration Rights

Under our registration rights agreement with JMP Securities, we may suspend sales under the shelf registration statement by the selling stockholders holding offered securities sold under the original offering. For a period not to exceed thirty days in any three month period or ninety days in the aggregate in any twelve month period in the event of:

- an underwritten offering where we are advised by the representative of the underwriters that the sale of securities pursuant to the shelf registration statement would have a material adverse effect on our underwritten offering; or
- pending negotiations relating to, or the consummation of, a transaction or the occurrence of an event

- that would require additional disclosure of material information by us in the shelf registration statement and that has not been so disclosed;
- as to which we have a bona fide business purpose for preserving confidentiality; or
- that renders us unable to comply with Securities and Exchange Commission requirements, in each case under circumstances that would make it unduly burdensome to cause the shelf registration statement to become effective or to promptly amend or supplement the shelf registration statement on a post-effective basis, as applicable.

No assurance can be given as to (1) the likelihood that an active market for our securities will develop, (2) the liquidity of any such market, (3) the ability of the stockholders to sell the securities or (4) the prices that stockholders may obtain for any of the securities. No prediction can be made as to the effect, if any, that future sales of securities, or the availability of securities for future sale, will have on the market price-prevailing from time to time. Sales of substantial amounts of the securities, or the perception that such sales could occur, may adversely affect prevailing market prices of the common stock. See “Risk Factors—Risk Factors Related to the Offering.”

For a description of certain restrictions on transfers of our securities held by certain of our stockholders, “Plan of Distribution.”

BOOK ENTRY ISSUANCE; THE DEPOSITORY TRUST COMPANY

The description of book entry procedures in this prospectus includes summaries of some of the rules and operating procedures of DTC that affect transfers of interests in the global certificate or certificates issued in connection with sales of our units to (a) qualified institutional buyers pursuant to Rule 144A under the Securities Act, (b) institutional "accredited investors" (as defined in Rule 501 (a) (1), (2), (3), (7), or (8) of the Securities Act) and (c) individual "accredited investors" (as defined in Rule 501 (a) (4), (5), or (6) of the Securities Act). Except as described in the next paragraph, our units were issued only as fully registered securities in the name of Cede & Co. (as nominee for DTC). One fully registered global certificate was issued, representing, in the aggregate, our units sold in reliance on Rule 144A, and was deposited with DTC. One fully registered global unit certificate was issued, representing, in the aggregate, our units sold in reliance on Regulation D, and was deposited with DTC. Our units are represented by the unit certificates, which bear an endorsement representing beneficial ownership of the underlying shares of common stock and the related warrants on deposit with the warrant agent as custodian for the registered holders of our units. Transfer of our units constitute transfer of a holder's beneficial interest in the shares of common stock and the related warrant. Upon the detachment of the units, the shares of common stock and warrants comprising the units will be represented by one or more fully registered global certificates.

The laws of some jurisdictions require that certain purchasers of securities take physical delivery of securities in definitive form. These laws may impair the ability to transfer or pledge beneficial interests in our units as represented by a global certificate.

DTC, a subsidiary of Depository Trust & Clearing Corporation, is a limited purpose trust company organized under the New York Banking Law, a "banking organization" within the meaning of the New York Banking Law, a member of the Federal Reserve System, a "clearing corporation" within the meaning of the New York Uniform Commercial Code, and a "clearing agency" registered pursuant to the provisions of Section 17A of the Securities Exchange Act of 1934, as amended, or the Exchange Act. DTC holds securities that its participants deposit with DTC. DTC facilitates the clearance and settlement of securities transactions between its participants through its electronic book entry system, thereby eliminating the need for physical movement of securities certificates. Direct participants include securities brokers and dealers, banks, trust companies, clearing corporations and various other organizations. DTC is owned by a number of its direct participants and by the New York Stock Exchange, Inc., the American Stock Exchange LLC and the National Association of Securities Dealers, Inc. Access to the DTC system is also available to others, such as securities brokers and dealers, banks and trust companies that clear transactions through or maintain a custodial relationship with a direct participant, either directly or indirectly. Persons who are not participants may beneficially own securities held by or on behalf of DTC only through DTC's participants and indirect participants. The rules applicable to DTC and its participants are on file with the SEC.

Purchases of our units under the DTC system must be made by or through direct participants, which will receive a credit for our units on DTC's records. The ownership interest of each actual purchaser of each unit, otherwise known as a beneficial owner, is in turn to be recorded on the direct and indirect participants' records. Beneficial owners will not receive written confirmation from DTC of their purchases, but beneficial owners are expected to receive written confirmations providing details of the transactions, as well as periodic statements of their holdings, from the direct or indirect participants through which the beneficial owners entered into the transaction. Transfers of ownership interests in our units are to be accomplished by entries made on the books of participants acting on behalf of beneficial owners. Beneficial owners will not receive certificates representing their ownership interests in our units, except as described in this prospectus or in the event that use of the book entry system for our units is discontinued or in certain other limited circumstances.

To facilitate subsequent transfers, all of our units deposited by participants with DTC are registered in the name of DTC's nominee, Cede & Co. or such other name as may be requested by an authorized representative of DTC. The deposit of our units with DTC and their registration in the name of Cede & Co. or such other nominee effect no change in beneficial ownership. DTC has no knowledge of actual beneficial owners of our units. DTC's records reflect only the identity of the direct participants to whose accounts our units are credited, which may or may not be the beneficial owners. The direct and indirect participants will remain responsible for keeping account of their holdings on behalf of their customers.

So long as DTC, or its nominee, is the registered owner or holder of a global certificate, DTC or its nominee, as the case may be, will be considered the sole owner or holder of the securities represented thereby for all purposes. No beneficial owner of an interest in a global certificate will be able to transfer that interest except in accordance with DTC's applicable procedures.

Transfers between participants in DTC will be effected in the ordinary way under DTC rules and will be settled in same day funds. If a holder requires physical delivery of a certificated unit for any reason, including to sell our units to persons in states that require delivery of the units or to pledge our units, the holder must transfer its interest in the global certificate in accordance with the normal procedures of DTC.

Conveyance of notices and other communications by DTC to direct participants, by direct participants to indirect participants and by direct participants and indirect participants to beneficial owners will be governed by arrangements among them, subject to any statutory or regulatory requirements that may be in effect from time to time.

Although voting with respect to our shares of common stock is limited to the holders of record of our units, in those cases where a vote is required, neither DTC nor Cede & Co. nor such other DTC nominee will consent or vote with respect to our shares of common stock. Under its usual procedures, DTC would mail an omnibus proxy to us as soon as possible after the record date. The omnibus proxy assigns the consenting or voting rights of Cede & Co. to those direct participants to whose accounts our units are credited on the record date (identified in a listing attached to the omnibus proxy).

Distribution payments on our shares of common stock held as part of a unit or directly in book entry form will be made to Cede & Co. or such other nominee as may be requested by an authorized representative of DTC in immediately available funds. DTC's practice is to credit direct participants' accounts upon DTC's receipt of funds and corresponding detail information from us on the relevant payment date in accordance with their respective holdings shown on DTC's records. Payments by participants to beneficial owners will be governed by standing instructions and customary practices, as is the case with securities held for the accounts of customers in bearer form or registered in "street name." The payments will be the responsibility of the participant and not of DTC, us or JMP Securities, subject to any statutory or regulatory requirements to the contrary that may be in effect from time to time. Payment of distributions to Cede & Co. or such other nominee as may be requested by an authorized representative of DTC is our responsibility, disbursement of the payments to direct participants is the responsibility of DTC and disbursement of the payments to the beneficial owners is the responsibility of direct and indirect participants.

Although DTC has agreed to the foregoing procedures in order to facilitate transfers of interests in the global certificates among direct participants of DTC, DTC is under no obligation to perform or continue to perform the procedures, and the procedures may be discontinued at any time. We will not have any responsibility for the performance by DTC or its participants or indirect participants under the rules and procedures governing DTC. DTC may discontinue providing its services as securities depository with respect to our units at any time by giving reasonable notice to us. Under those circumstances, in the event that a successor securities depository is not obtained, share certificates are required to be printed and delivered. Additionally, we may decide to discontinue use of the system of book entry transfers through DTC (or any successor depository) with respect to our units. In that event, certificates for our units will be printed and delivered.

Except as otherwise described in this prospectus, a beneficial owner in a global certificate will not be entitled to receive physical delivery of our units. Accordingly, each beneficial owner must rely on the procedures of DTC to exercise any rights under our units.

The information in this section and elsewhere in this prospectus concerning DTC and DTC's book entry system has been obtained from sources that we believe to be reliable, but we take no responsibility for the accuracy of this information.

IMPORTANT PROVISIONS OF MARYLAND LAW AND OF OUR CHARTER AND BYLAWS

The following description of certain provisions of Maryland law and of our charter and bylaws does not purport to be complete and is subject to and qualified in its entirety by reference to the MGCL, our charter and our bylaws.

The Board of Directors

Our bylaws provide that the number of directors of our company may be established by our board of directors but may not be fewer than the minimum number permitted under the MGCL (currently, one) nor more than nine. Any vacancy will be filled, at any regular meeting or at any special meeting called for that purpose, by a majority of the remaining directors, except that a vacancy resulting from an increase in the number of directors must be filled by a majority of our entire board of directors. In addition, our charter provides that a majority of our directors are required to be independent.

Pursuant to our charter, the board of directors is divided into three classes of directors. The current terms of the Class I, Class II and Class III directors will expire in 2004, 2005 and 2006, respectively. Directors of each class will be nominated for three year terms upon the expiration of each three year term and each year one class of directors will be elected by the stockholders. We believe that classification of the board of directors helps to assure the continuity and stability of our business strategies and policies as determined by the board of directors. Holders of shares of our common stock have no right to cumulative voting in the election of directors. Consequently, at each annual meeting of stockholders, the holders of a majority of the shares of our common stock are able to elect all of the successors of the class of directors whose terms expire at that meeting.

The classified board provision could have the effect of making the replacement of incumbent directors more time consuming and difficult. At least two annual meetings of stockholders, instead of one, is generally required to effect a change in a majority of our board of directors. Thus, the classified board provision could increase the likelihood that incumbent directors will retain their positions. The staggered terms of directors may delay, defer or prevent a tender offer or an attempt to change the control of us, even though the tender offer or change in control might be in the best interest of our stockholders.

Removal of Directors

Our charter provides that a director may be removed only for cause (as defined in the charter) and only by the affirmative vote of at least two-thirds of the votes entitled to be cast in the election of directors. This provision, when coupled with the provision in our bylaws authorizing our board of directors to fill vacant directorships, precludes stockholders from removing incumbent directors except for cause and by a substantial affirmative vote and filling the vacancies created by the removal with their own nominees.

Liability and Indemnification of Officers and Directors

Maryland law permits a Maryland corporation to include in its charter a provision limiting the liability of its directors and officers to the corporation and its stockholders for money damages except for liability resulting from (1) actual receipt of an improper benefit or profit in money, property or services or (2) active and deliberate dishonesty established by a final judgment and that is material to the cause of action. Our charter contains such a provision that eliminates directors' and officers' liability to the maximum extent permitted by Maryland law.

Our charter authorizes us, to the maximum extent permitted by Maryland law, to indemnify any present or former director or officer or any individual who, while our director and at our request, serves or has served another corporation, real estate investment trust, partnership, joint venture, trust, employee benefit plan or other enterprise as a director, officer, partner or trustee, from and against any claim or liability to which that person may become subject or which that person may incur by reason of his status as a present or former director or officer of ours and to pay or reimburse their reasonable expenses in advance of final disposition of a proceeding. Our bylaws obligate us, to the maximum extent permitted by Maryland law, to indemnify any present or former director or officer or any

individual who, while our director and at our request, serves or has served another corporation, real estate investment trust, partnership, joint venture, trust, employee benefit plan or other enterprise as a director, officer, partner or trustee and who is made a party to the proceeding by reason of his service in that capacity from and against any claim or liability to which that person may become subject or which that person may incur by reason of his or her status as a present or former director or officer of ours and to pay or reimburse their reasonable expenses in advance of final disposition of a proceeding. The charter and bylaws also permit us to indemnify and advance expenses to any person who served a predecessor of ours in any of the capacities described above and any employee or agent of ours or a predecessor of ours.

Maryland law requires a corporation (unless its charter provides otherwise, which our charter does not) to indemnify a director or officer who has been successful in the defense of any proceeding to which he is made a party by reason of his service in that capacity. Maryland law permits a corporation to indemnify its present and former directors and officers, among others, against judgments, penalties, fines, settlements and reasonable expenses actually incurred by them in connection with any proceeding to which they may be made a party by reason of their service in those or other capacities unless it is established that (a) the act or omission of the director or officer was material to the matter giving rise to the proceeding and (i) was committed in bad faith or (ii) was the result of active and deliberate dishonesty, (b) the director or officer actually received an improper personal benefit in money, property or services or (c) in the case of any criminal proceeding, the director or officer had reasonable cause to believe that the act or omission was unlawful. However, under Maryland law, a Maryland corporation may not indemnify for an adverse judgment in a suit by or in the right of the corporation or for a judgment of liability on the basis that personal benefit was improperly received, unless in either case a court orders indemnification and then only for expenses. In addition, Maryland law permits a corporation to advance reasonable expenses to a director or officer upon the corporation's receipt of (a) a written affirmation by the director or officer of his good faith belief that he has met the standard of conduct necessary for indemnification by the corporation and (b) a written undertaking by him or on his behalf to repay the amount paid or reimbursed by the corporation if it is ultimately determined that the standard of conduct was not met.

Business Combinations

Under Maryland law, "business combinations" between a Maryland corporation and an interested stockholder or an affiliate of an interested stockholder are prohibited for five years after the most recent date on which the interested stockholder becomes an interested stockholder. These business combinations include a merger, consolidation, share exchange, or, in circumstances specified in the statute, an asset transfer or issuance or reclassification of equity securities. An interested stockholder is defined as:

- any person who beneficially owns 10% or more of the voting power of the corporation's shares; or
- an affiliate or associate of the corporation who, at any time within the two year period prior to the date in question, was the beneficial owner of 10% or more of the voting power of the then outstanding voting stock of the corporation.

A person is not an interested stockholder under the statute if the board of directors approved in advance the transaction by which he otherwise would have become an interested stockholder. However, in approving a transaction, the board of directors may provide that its approval is subject to compliance, at or after the time of approval, with any terms and conditions determined by the board.

After the five year prohibition, any business combination between the Maryland corporation and an interested stockholder generally must be recommended by the board of directors of the corporation and approved by the affirmative vote of at least:

- 80% of the votes entitled to be cast by holders of outstanding shares of voting stock of the corporation; and
- two-thirds of the votes entitled to be cast by holders of voting stock of the corporation other than shares held by the interested stockholder with whom or with whose affiliate the business combination is to be effected or held by an affiliate or associate of the interested stockholder.

These super majority vote requirements do not apply if the corporation's common stockholders receive a minimum price, as defined under Maryland law, for their shares in the form of cash or other consideration in the same form as previously paid by the interested stockholder for its shares.

The statute permits various exemptions from its provisions, including business combinations that are exempted by the board of directors before the time that the interested stockholder becomes an interested stockholder. Pursuant to the statute, our board of directors has exempted any business combinations (a) between us and ACM or any of its affiliates and (b) between us and any interested stockholder, provided that any such business combination is first approved by our board of directors (including a majority of our directors who are not affiliates or associates of such interested stockholder). Consequently, the five year prohibition and the super majority vote requirements do not apply to business combinations between us and any of them. As a result, such parties may be able to enter into business combinations with us that may not be in the best interest of our stockholders, without compliance with the supermajority vote requirements and the other provisions of the statute.

The business combination statute may discourage others from trying to acquire control of us and increase the difficulty of consummating any offer.

Control Share Acquisitions

Maryland law provides that control shares of a Maryland corporation acquired in a control share acquisition have no voting rights except to the extent approved by a vote of two thirds of the votes entitled to be cast on the matter. Shares owned by the acquiror, by officers or by directors who are employees of the corporation are excluded from shares entitled to vote on the matter. Control shares are voting shares of stock which, if aggregated with all other shares of stock owned by the acquiror or in respect of which the acquiror is able to exercise or direct the exercise of voting power (except solely by virtue of a revocable proxy), would entitle the acquiror to exercise voting power in electing directors within one of the following ranges of voting power:

- one-tenth or more but less than one third,
- one-third or more but less than a majority, or
- a majority or more of all voting power.

Control shares do not include shares the acquiring person is then entitled to vote as a result of having previously obtained stockholder approval. A control share acquisition means the acquisition of control shares, subject to certain exceptions.

A person who has made or proposes to make a control share acquisition may compel the board of directors of the corporation to call a special meeting of stockholders to be held within 50 days of demand to consider the voting rights of the shares. The right to compel the calling of a special meeting is subject to the satisfaction of certain conditions, including an undertaking to pay the expenses of the meeting. If no request for a meeting is made, the corporation may itself present the question at any stockholders meeting.

If voting rights are not approved at the meeting or if the acquiring person does not deliver an acquiring person statement as required by the statute, then the corporation may redeem for fair value any or all of the control shares, except those for which voting rights have previously been approved. The right of the corporation to redeem control shares is subject to certain conditions and limitations. Fair value is determined, without regard to the absence of voting rights for the control shares, as of the date of the last control share acquisition by the acquiror or of any meeting of stockholders at which the voting rights of the shares are considered and not approved.

The control share acquisition statute does not apply (a) to shares acquired in a merger, consolidation or share exchange if the corporation is a party to the transaction, or (b) to acquisitions approved or exempted by the charter or bylaws of the corporation.

Our bylaws contain a provision exempting from the control share acquisition statute any and all acquisitions by any person of shares of our stock. This provision may be amended or eliminated at any time in the future.

Amendment to Our Charter

Our charter generally may be amended only by the affirmative vote of the holders of not less than a majority vote of all of the votes entitled to be cast on the matter, with certain exceptions, including provisions regarding classification of our board of directors and our independent directors, that require the affirmative vote of stockholders entitled to cast not less than two-thirds of all of the votes entitled to be cast on the matter.

Advance Notice of Director Nominations and New Business

Our bylaws provide that with respect to an annual meeting of stockholders, nominations of persons for election to our board of directors and the proposal of business to be considered by stockholders may be made only (i) pursuant to our notice of the meeting, (ii) by our board of directors or (iii) by a stockholder of record who is entitled to vote at the meeting and who has complied with the advance notice procedures of our bylaws. With respect to special meetings of stockholders, only the business specified in our notice of the meeting may be brought before the meeting. Nominations of persons for election to our board of directors at a special meeting may be made only (i) pursuant to our notice of the meeting, (ii) by the board of directors or (iii) provided that the board of directors has determined that directors will be elected at the meeting, by a stockholder who is entitled to vote at the meeting and who has complied with the advance notice provisions of our bylaws.

Anti-Takeover Effect of Certain Provisions of Maryland Law and of Our Charter and Bylaws

The business combination provisions and, if the applicable provision in our bylaws is rescinded, the control share acquisition provisions of Maryland law, the provisions of our charter on classification of our board of directors and removal of directors and the advance notice provisions of our bylaws could delay, defer or prevent a transaction or a change in the control of us that might involve a premium price for holders of our common stock or otherwise be in their best interest.

OUR OPERATING PARTNERSHIP AGREEMENT

Management

Arbor Realty Limited Partnership, our operating partnership, has been organized as a Delaware limited partnership. We are the sole general partner of our operating partnership, and we, along with ACM, are initially the sole limited partners. We hold all of our interests in our operating partnership through two wholly owned subsidiaries, Arbor Realty GPOP, Inc., the general partner, and Arbor Realty LPOP, Inc., a limited partner. We own approximately a 72% interest in our operating partnership, and ACM owns the remaining interest of approximately 28%. In the future, additional operating partnership units may be issued to us, to ACM or its affiliates, or to third parties.

Pursuant to the partnership agreement of our operating partnership, we, as the sole general partner, generally have full, exclusive and complete responsibility and discretion in the management, operation and control of the partnership, including the ability to cause the partnership to enter into certain major transactions, including acquisitions and dispositions of loans and other assets and refinancings of existing indebtedness. No limited partners may take part in the operation, management or control of the business of our operating partnership by virtue of being a holder of operating partnership units. Pursuant to the management agreement between us and ACM, and subject to the oversight of our board of directors, ACM manages our business, including our management and operation of our operating partnership.

We may not be removed as general partner of the partnership, except that upon our bankruptcy or dissolution, the limited partners may appoint a successor general partner to continue the partnership.

We are not obligated to consider the interests of the limited partners separately from the interests of our stockholders in deciding whether to cause the operating partnership to take or decline to take any actions.

Transferability of Interests

General Partner. The partnership agreement provides that we may not sell, assign, transfer, pledge or otherwise dispose of our general partner interest without the consent of the holders of a majority of the limited partnership interests, except for transfers:

- to a subsidiary of ours; or
- in connection with our merger into another entity, if the surviving entity contributes substantially all its assets to our operating partnership.

Limited Partners. The partnership agreement prohibits the sale, assignment, transfer, pledge or disposition of all or any portion of the limited partners' operating partnership units without our consent, which we may give or withhold in our sole discretion. However, an individual partner may transfer his operating partnership units to his immediate family or a trust for his immediate family, without our consent but subject to our right not to admit the transferee as a limited partner in our operating partnership. In addition, the partnership agreement contains other restrictions on transfer of operating partnership units if, among other things, that transfer:

- would require registration of the partnership units under federal or state securities laws or would require our operating partnership to become a reporting company under the Exchange Act,
- would cause us to fail to comply with the REIT rules under the Internal Revenue Code, or
- would cause us to become a publicly traded partnership under the Internal Revenue Code.

Capital Contributions and Borrowings

We contributed to the partnership all the net proceeds of the original offering of our units to the partnership as our initial capital contribution in exchange for a 72% interest in our operating partnership, 0.1% of which is in the form of a general partner interest, and the remaining 71.9% of which is held as a limited partner interest. ACM contributed the initial assets to the partnership in exchange for the remaining 28% interest in our operating

partnership, which is a limited partner interest. In connection with its limited partner interest, ACM also received warrants to purchase additional limited partnership interests for an exercise price of $15 per operating partnership unit. Upon exercise of such warrants by ACM, and in the absence of any additional issuances of operating partnership units or changes in the ownership of our operating partnership, ACM would own approximately a 32% interest in our operating partnership.

The partnership agreement provides that we may determine that the partnership requires additional funds and that we may:

- on behalf of the partnership, accept additional capital contributions from existing partners or other persons,
- cause the partnership to borrow funds from a financial institution or other person,
- borrow such funds from a lending institution or other person and subsequently lend such funds to the partnership, or
- directly lend funds to the operating partnership.

Under the partnership agreement, we are obligated to contribute the proceeds of any offering of stock as additional capital to the partnership. Our operating partnership is authorized to issue partnership interests for less than fair market value if we conclude in good faith that such issuance is in both the partnership's and our best interests. Partnership interests may be issued for less than their fair market value on the date of issuance in connection with the exercise by ACM of its warrants to acquire operating partnership units, or in connection with our contribution of proceeds that we receive upon the issuance of our stock pursuant to the exercise of stock options or warrants.

While the limited partners have no preemptive right to make additional capital contributions, the partnership agreement provides that we, as general partner, may make additional capital contributions to the partnership, in exchange for additional operating partnership units or additional assets, as we determine in good faith to be desirable to further the purposes or business of the partnership. If we contribute additional capital to the partnership and receive additional partnership interests for such capital contribution, our percentage interests will be increased on a proportionate basis based on the amount of such additional capital contributions and the value of the partnership at the time of such contributions. Conversely, the percentage interests of the other limited partners will be decreased on a proportionate basis. In addition, if we contribute additional capital to the partnership and receive additional partnership interests for such capital contribution, we may revalue the assets of the partnership to their fair market value (as determined by us) and the capital accounts of the partners will be adjusted to reflect the manner in which the unrealized gain or loss inherent in such assets (that has not been reflected in the capital accounts previously) would be allocated among the partners under the terms of the partnership agreement if there were a disposition of such assets for such fair market value on the date of the revaluation. Our operating partnership could also issue operating partnership units to ACM or its affiliates, or to third parties, in exchange for assets contributed to or services provided for our operating partnership. Such transactions may give rise to a revaluation of the partnership's assets and an adjustment to partners' capital accounts.

Our operating partnership could also issue preferred partnership interests in connection with acquisitions of assets or otherwise. Any such preferred partnership interests would have priority over common partnership interests with respect to distributions from the partnership, including the partnership interests that we own directly or through subsidiaries.

Redemption Rights

Under the partnership agreement, each limited partner (other than us and any of our subsidiaries that may hold limited partner interests) has the right to redeem their operating partnership units. This right may be exercised at the election of that limited partner by giving us written notice, subject to some limitations. The purchase price for each of the operating partnership units to be redeemed will equal the fair market value of one share of our common stock, calculated as the average of the daily closing prices for the ten consecutive trading days immediately preceding the date of determination, or, if no closing price is available, the fair market value as determined in good faith by the board of directors of the general partner. The purchase price for the operating partnership units may be

paid in cash, or, in our discretion, by the issuance by us of a number of shares of our common stock equal to the number of operating partnership units with respect to which the rights are being exercised.

No limited partner may exercise its redemption rights if we could not issue stock to the redeeming partner in satisfaction of the redemption (regardless of whether we would in fact do so instead of paying cash) because of the ownership limitations contained in our charter, or if the redemption would cause us to violate the REIT requirements. In addition, no limited partner may exercise the redemption right:

- for fewer than 500 operating partnership units or, if a limited partner holds fewer than 500 operating partnership units, all of the operating partnership units held by such limited partner,
- unless permitted by us, more than once each fiscal quarter, or
- if the issuance of our common stock to satisfy the redemption would be likely to cause the acquisition of common stock by such redeeming limited partner to be "integrated" with any other distribution of common stock or limited partnership interests for purposes of complying with the Securities Act.

ACM's right to cause a redemption of operating partnership units that it holds will not be exercisable until the earlier of (1) two years following the closing of the original offering, and (2) 180 days following the effectiveness the registration statement of which this prospectus is a part.

The aggregate number of shares of common stock issuable upon exercise of the redemption rights, including redemption rights with respect to operating partnership units that may be issued upon exercise of warrants granted to ACM, is approximately 3.7 million. The number of shares of common stock issuable and the cash amount payable upon exercise of the redemption rights will be adjusted to account for share splits, mergers, consolidations or similar pro rata share transactions.

Operations

The agreement allows us to operate the operating partnership in a manner that permits us to qualify as a REIT at all times and to cause the partnership not to take any action that would cause us to incur additional federal income or excise tax liability under the Internal Revenue Code. The partnership agreement also provides that we may not conduct any business other than in connection with the management of the operating partnership's business, our operations as a REIT and related activities and generally obligates us to own our assets through the operating partnership.

The operating partnership must reimburse us for all amounts we spend in connection with the partnership's business, including:

- expenses relating to our ownership and management of the partnership;
- the management fees owing to ACM, and the fees or compensation owing to directors, officers and employees; and
- if we become a public company, the expense of our being a public company.

Allocations

Profits and losses of our operating partnership (including depreciation and amortization deductions) for each fiscal year generally are allocated to us and the other limited partners in accordance with the respective percentage interests of the partners in the partnership. In the event, however, that the registration statement of which this prospectus forms a part is not declared effective by June 30, 2004, then the operating partnership will allocate to us, for each quarter that the condition continues, income in the amount of $0.0625 per operating partnership unit that we hold, prior to any other allocations by the partnership. Our operating partnership would have also been obligated to make such an allocation to us had we not filed the registration statement of which this prospectus forms a part by December 31, 2003. The number of operating partnership units that we hold generally corresponds to the number of shares of our common stock outstanding. All of the foregoing allocations are subject to compliance with the provisions of Internal Revenue Code sections 704(b) and 704(c) and Treasury regulations promulgated thereunder.

Distributions

The partnership agreement provides that our operating partnership makes quarterly cash distributions in amounts determined by us in our sole discretion, to us and other limited partners, generally in accordance with the respective percentage interests of the partners in the partnership. To the extent, however, that the registration statement of which this prospectus forms a part is not declared effective by June 30, 2004, and, as a result, income is specially allocated to us by the operating partnership in the manner and amounts referenced above, then an amount equal to such special allocations will be distributed to us, and available for distribution by us to our stockholders, prior to other distributions by the operating partnership.

Upon liquidation of the partnership, after payment of, or adequate provisions for, debts and obligations of the partnership, including any partner loans, any remaining assets of the partnership will be distributed to us and the other limited partners with positive capital accounts in accordance with the respective positive capital account balances of the partners.

Amendments

Generally, we, as the general partner of our operating partnership, may not amend the partnership agreement without the consent of the holders of the majority of the limited partnership interest, except that without the consent of any limited partner we may amend the agreement to:

- add to our obligations or surrender our rights, as general partner, under the agreement for the benefit of the limited partners,
- reflect the issuance of additional partnership units or the admission, substitution, termination or withdrawal of partners in accordance with the partnership agreement,
- reflect inconsequential changes, cure any ambiguity, correct or supplement any provision not inconsistent with law or another provision of the partnership agreement, or make other changes concerning matters under the agreement not otherwise inconsistent with the law or the agreement,
- satisfy requirements or guidelines under federal or state law,
- reflect changes that are reasonably necessary for us, as general partner, to satisfy the REIT requirements or reflect the transfer of partnership interests from us, as general partner, to a subsidiary of ours,
- modify the manner in which capital accounts are computed but only to the extent set forth in the operating partnership agreement in order to comply with the requirements of the Internal Revenue Code and the Treasury Regulations promulgated thereunder, or
- issue additional partnership interests in the operating partnership.

We may not, without the consent of each limited partner adversely affected, make any amendment to the operating partnership agreement that would (1) convert a limited partnership interest into a general partner interest or modify the limited liability of a limited partner, (2) alter the distribution rights or the allocations described in the agreement, or (3) modify the redemption rights.

Exculpation and Indemnification of the General Partner

The partnership agreement of our operating partnership provides that neither we, as general partner, nor any of our directors and officers are liable to the partnership or to any of its partners as a result of errors in judgment or mistakes of fact or law or of any act or omission, if we, our director or our officer acted in good faith.

In addition, the partnership agreement requires our operating partnership to indemnify and hold us, as general partner, and our directors, officers and any other person we designate, from and against any and all claims arising from operations of the operating partnership in which any such indemnitee may be involved, or is threatened to be involved, as a party or otherwise, unless it is established that:

- the act or omission of the indemnitee was material to the matter giving rise to the proceeding and was committed in bad faith or was the result of active and deliberate dishonesty,

- the indemnitee actually received an improper personal benefit in money, property or services, or
- in the case of any criminal proceeding, the indemnitee has reasonable cause to believe that the act or omission was unlawful.

No indemnitee may subject any partner of our operating partnership to personal liability with respect to this indemnification obligation.

Term

The partnership will continue until dissolved upon:

- the general partner's bankruptcy or dissolution or withdrawal (unless the limited partners elect to continue the partnership) or a decree of judicial dissolution under Delaware law;
- the sale or other disposition of all or substantially all the assets of the partnership;
- the redemption of all partnership units (other than those held by us or our subsidiaries); or
- an election by us, in our sole discretion, in our capacity as the general partner.

Tax Matters

We are the tax matters partner of our operating partnership, and we have the authority to make tax elections under the Internal Revenue Code on behalf of the partnership.

FEDERAL INCOME TAX CONSIDERATIONS

The following is a summary of the material federal income tax consequences relating to the acquisition, holding and disposition of common stock and warrants of Arbor Realty. For purposes of this section under the heading "Federal Income Tax Considerations," references to "Arbor Realty," "we," "our" and "us" mean only Arbor Realty Trust, Inc. and not its subsidiaries or other lower-tier entities, except as otherwise indicated. This summary is based upon the Internal Revenue Code, the regulations promulgated by the U.S. Treasury Department, rulings and other administrative pronouncements issued by the IRS and judicial decisions, all as currently in effect, and all of which are subject to differing interpretations or to change, possibly with retroactive effect. No assurance can be given that the IRS would not assert, or that a court would not sustain, a position contrary to any of the tax consequences described below. No advance ruling has been or will be sought from the IRS regarding any matter discussed in this prospectus. The summary is also based upon the assumption that the operation of Arbor Realty, and of its subsidiaries and other lower-tier and affiliated entities, will in each case be in accordance with its applicable organizational documents or partnership agreement. This summary is for general information only, and does not purport to discuss all aspects of federal income taxation that may be important to a particular investor in light of its investment or tax circumstances, or to investors subject to special tax rules, such as:

- financial institutions;
- insurance companies;
- broker-dealers;
- regulated investment companies;
- holders who receive Arbor Realty common stock through the exercise of employee stock options or otherwise as compensation;
- persons holding Arbor Realty common stock as part of a "straddle," "hedge," "conversion transaction," "synthetic security" or other integrated investment;

and, except to the extent discussed below:

- tax-exempt organizations; and
- foreign investors.

This summary assumes that investors will hold our common stock and warrants as capital assets, which generally means as property held for investment.

THE FEDERAL INCOME TAX TREATMENT OF HOLDERS OF ARBOR REALTY COMMON STOCK AND WARRANTS DEPENDS IN SOME INSTANCES ON DETERMINATIONS OF FACT AND INTERPRETATIONS OF COMPLEX PROVISIONS OF FEDERAL INCOME TAX LAW FOR WHICH NO CLEAR PRECEDENT OR AUTHORITY MAY BE AVAILABLE. IN ADDITION, THE TAX CONSEQUENCES OF HOLDING ARBOR REALTY COMMON STOCK AND WARRANTS TO ANY PARTICULAR INVESTOR WILL DEPEND ON THE INVESTOR'S PARTICULAR TAX CIRCUMSTANCES. YOU ARE URGED TO CONSULT YOUR TAX ADVISOR REGARDING THE FEDERAL, STATE, LOCAL AND FOREIGN INCOME AND OTHER TAX CONSEQUENCES TO YOU, IN LIGHT OF YOUR PARTICULAR INVESTMENT OR TAX CIRCUMSTANCES, OF ACQUIRING, HOLDING, EXCHANGING OR OTHERWISE DISPOSING OF ARBOR REALTY COMMON STOCK AND WARRANTS.

Taxation of Arbor Realty

Arbor Realty intends to elect to be taxed as a REIT, commencing with its initial taxable year ending December 31, 2003, upon the filing of its federal income tax return for that year. We believe that we were organized and have operated in such a manner as to qualify for taxation as a REIT, and intend to continue to operate in such a manner.

The law firm of Skadden, Arps, Slate, Meagher & Flom LLP has acted as our tax counsel in connection with our formation. We expect to receive the opinion of Skadden, Arps, Slate, Meagher & Flom LLP to the effect that Arbor Realty is organized in conformity with the requirements for qualification as a REIT under the Internal

Revenue Code, and that its proposed method of operation will enable it to meet the requirements for qualification and taxation as a REIT. It must be emphasized that an opinion of counsel is based on various assumptions relating to the organization and operation of Arbor Realty, and is conditioned upon representations and covenants made by the management of Arbor Realty and affiliated entities regarding its organization, assets and the past, present and future conduct of its business operations. While Arbor Realty intends to operate so that it will qualify as a REIT, given the highly complex nature of the rules governing REITs, the ongoing importance of factual determinations and the possibility of future changes in the circumstances of Arbor Realty, no assurance can be given by Skadden, Arps, Slate, Meagher & Flom LLP or Arbor Realty that Arbor Realty will so qualify for any particular year. Counsel will have no obligation to advise Arbor Realty or the holders of Arbor Realty common stock or warrants of any subsequent change in the matters stated, represented or assumed, or of any subsequent change in the applicable law. You should be aware that opinions of counsel are not binding on the IRS, and no assurance can be given that the IRS will not challenge the conclusions set forth in such opinions.

Qualification and taxation as a REIT depends on the ability of Arbor Realty to meet, on a continuing basis, through actual operating results, distribution levels, and diversity of stock ownership, various qualification requirements imposed upon REITs by the Internal Revenue Code, the compliance with which will not be reviewed by Skadden, Arps, Slate, Meagher & Flom LLP. Arbor Realty's ability to qualify as a REIT also requires that it satisfies certain asset tests, some of which depend upon the fair market values of assets directly or indirectly owned by Arbor Realty. Such values may not be susceptible to a precise determination. Accordingly, no assurance can be given that the actual results of Arbor Realty's operations for any taxable year satisfy such requirements for qualification and taxation as a REIT.

Taxation of REITs in General

As indicated above, qualification and taxation as a REIT depends upon the ability of Arbor Realty to meet, on a continuing basis, various qualification requirements imposed upon REITs by the Internal Revenue Code. The material qualification requirements are summarized below under "Requirements for Qualification—General." While Arbor Realty intends to operate so that it qualifies as a REIT, no assurance can be given that the IRS will not challenge its qualification, or that it will be able to operate in accordance with the REIT requirements in the future. See "—Failure to Qualify" below.

Provided that Arbor Realty qualifies as a REIT, it will generally be entitled to a deduction for dividends that it pays and therefore will not be subject to federal corporate income tax on its net income that is currently distributed to its stockholders. This treatment substantially eliminates the "double taxation" at the corporate and stockholder levels that historically has resulted from investment in a corporation. Rather, income generated by a REIT generally is taxed only at the stockholder level upon a distribution of dividends by the REIT.

The Jobs and Growth Tax Relief Reconciliation Act of 2003 (the "Jobs and Growth Act") was enacted in 2003. Among other provisions, the Jobs and Growth Act generally lowers the rate at which stockholders who are individuals are taxed on corporate dividends, from a maximum of 38.6% (as ordinary income) to a maximum of 15% (the same as long-term capital gains), for the 2003 through 2008 tax years, thereby substantially reducing, though not completely eliminating, the double taxation that has historically applied to corporate dividends. With limited exceptions, however, dividends received by stockholders from Arbor Realty or from other entities that are taxed as REITs will continue to be taxed at rates applicable to ordinary income, which, pursuant to the Jobs and Growth Act, will be as high as 35% through 2010. See "Taxation of Stockholders – Taxation of Taxable U.S. Stockholders – Distributions."

Net operating losses, foreign tax credits and other tax attributes of a REIT generally do not pass through to the stockholders of the REIT, subject to special rules for certain items such as capital gains recognized by REITs. See "Taxation of Stockholders."

If Arbor Realty qualifies as a REIT, it will nonetheless be subject to federal tax in the following circumstances:

- Arbor Realty will be taxed at regular corporate rates on any undistributed income, including undistributed net capital gains.
- Arbor Realty may be subject to the "alternative minimum tax" on its items of tax preference, including any deductions of net operating losses.
- If Arbor Realty has net income from prohibited transactions, which are, in general, sales or other dispositions of property held primarily for sale to customers in the ordinary course of business, other than foreclosure property, such income will be subject to a 100% tax. See "—Prohibited Transactions," and "—Foreclosure Property," below.
- If Arbor Realty elects to treat property that it acquires in connection with a foreclosure of a mortgage loan or certain leasehold terminations as "foreclosure property," it may thereby avoid the 100% tax on gain from a resale of that property (if the sale would otherwise constitute a prohibited transaction), but the income from the sale or operation of the property may be subject to corporate income tax at the highest applicable rate (currently 35%).
- If Arbor Realty fails to satisfy the 75% gross income test or the 95% gross income test, as discussed below, but nonetheless maintains its qualification as a REIT because other requirements are met, it will be subject to a 100% tax on an amount based upon the magnitude of the failure, adjusted to reflect the profit margin associated with Arbor Realty's gross income.
- If Arbor Realty fails to distribute during each calendar year at least the sum of (a) 85% of its REIT ordinary income for such year, (b) 95% of its REIT capital gain net income for such year and (c) any undistributed taxable income from prior periods, Arbor Realty will be subject to a 4% excise tax on the excess of the required distribution over the sum of (i) the amounts actually distributed, plus (ii) retained amounts on which income tax is paid at the corporate level.
- Arbor Realty may be required to pay monetary penalties to the IRS in certain circumstances, including if it fails to meet record-keeping requirements intended to monitor its compliance with rules relating to the composition of a REIT's stockholders, as described below in "Requirements for Qualification—General."
- A 100% tax may be imposed on some items of income and expense that are directly or constructively paid between a REIT and a taxable REIT subsidiary (as described below) if and to the extent that the IRS successfully adjusts the reported amounts of these items.
- If Arbor Realty acquires appreciated assets from a corporation that is not a REIT (i.e., a corporation taxable under subchapter C of the Internal Revenue Code) in a transaction in which the adjusted tax basis of the assets in the hands of Arbor Realty is determined by reference to the adjusted tax basis of the assets in the hands of the subchapter C corporation, Arbor Realty may be subject to tax on such appreciation at the highest corporate income tax rate then applicable if it subsequently recognizes gain on a disposition of any such assets during the ten-year period following their acquisition from the subchapter C corporation.
- The earnings of Arbor Realty's subsidiaries could be subject to federal corporate income tax to the extent that such subsidiaries are subchapter C corporations.

In addition, Arbor Realty and its subsidiaries may be subject to a variety of taxes, including payroll taxes and state, local and foreign income, property and other taxes on their assets and operations. Arbor Realty could also be subject to tax in situations and on transactions not presently contemplated.

Requirements for Qualification—General

The Internal Revenue Code defines a REIT as a corporation, trust or association:

(1) that is managed by one or more trustees or directors;

(2) the beneficial ownership of which is evidenced by transferable shares, or by transferable certificates of beneficial interest;

(3) that would be taxable as a domestic corporation but for the special Internal Revenue Code provisions applicable to REITs;

(4) that is neither a financial institution nor an insurance company subject to specific provisions of the Internal Revenue Code;

(5) the beneficial ownership of which is held by 100 or more persons;

(6) in which, during the last half of each taxable year, not more than 50% in value of the outstanding stock is owned, directly or indirectly, by five or fewer "individuals" (as defined in the Internal Revenue Code to include specified tax-exempt entities); and

(7) which meets other tests described below, including with respect to the nature of its income and assets.

The Internal Revenue Code provides that conditions (1) through (4) must be met during the entire taxable year, and that condition (5) must be met during at least 335 days of a taxable year of 12 months, or during a proportionate part of a shorter taxable year. Arbor Realty's charter provides restrictions regarding the ownership and transfer of its shares, which are intended to assist in satisfying the share ownership requirements described in conditions (5) and (6) above. For purposes of condition (6), an "individual" generally includes a supplemental unemployment compensation benefit plan, a private foundation, or a portion of a trust permanently set aside or used exclusively for charitable purposes, but does not include a qualified pension plan or profit sharing trust. Arbor Realty is not required to satisfy conditions (5) and (6) for its initial taxable year ending December 31, 2003.

To monitor compliance with the share ownership requirements, Arbor Realty is generally required to maintain records regarding the actual ownership of its shares. To do so, Arbor Realty must demand written statements each year from the record holders of specified percentages of its stock in which the record holders are to disclose the actual owners of the shares—i.e., the persons required to include in gross income the dividends paid by Arbor Realty. A list of those persons failing or refusing to comply with this demand must be maintained as part of the records of Arbor Realty. Failure by Arbor Realty to comply with these record-keeping requirements could subject it to monetary penalties. If Arbor Realty satisfies these requirements and has no reason to know that condition (6) is not satisfied, it will be deemed to have satisfied such condition. A stockholder that fails or refuses to comply with the demand is required by Treasury regulations to submit a statement with its tax return disclosing the actual ownership of the shares and other information.

Arbor Realty's ability to satisfy the share ownership requirements depends in part on the relative values of our common stock, special voting preferred stock, and any other classes of stock that might be issued in the future. Although Arbor Realty believes that the stockholder ownership limitations contained in its charter will enable it to meet such requirements, the relative values of its classes of stock have not been determined by independent appraisal, and no assurance can be given that despite compliance with the charter limitations, the relative values of the classes of stock would not be successfully challenged by the IRS so as to cause Arbor Realty to fail such REIT ownership requirements.

In addition, a corporation generally may not elect to become a REIT unless its taxable year is the calendar year. Arbor Realty satisfies this requirement.

Effect of Subsidiary Entities

Ownership of Partnership Interests. In the case of a REIT that is a partner in a partnership, Treasury regulations provide that the REIT is deemed to own its proportionate share of the partnership's assets, and to earn its proportionate share of the partnership's income, for purposes of the asset and gross income tests applicable to REITs as described below. In addition, the assets and gross income of the partnership are deemed to retain the same character in the hands of the REIT. Thus, Arbor Realty's proportionate share, based upon its percentage capital interest, of the assets and items of income of partnerships in which it owns an equity interest (including its interest in the operating partnership and its preferred equity interests in lower-tier partnerships), are treated as assets and items of income of Arbor Realty for purposes of applying the REIT requirements described below. Consequently, to the extent that Arbor Realty directly or indirectly holds a preferred or other equity interest in a partnership, the partnership's assets and operations may affect Arbor Realty's ability to qualify as a REIT, even though Arbor Realty

may have no control, or only limited influence, over the partnership. A summary of certain rules governing the federal income taxation of partnerships and their partners is provided below in "Tax Aspects of Investments in Partnerships."

Disregarded Subsidiaries. If a REIT owns a corporate subsidiary that is a "qualified REIT subsidiary," that subsidiary is disregarded for federal income tax purposes, and all assets, liabilities and items of income, deduction and credit of the subsidiary are treated as assets, liabilities and items of income, deduction and credit of the REIT itself, including for purposes of the gross income and asset tests applicable to REITs as summarized below. A qualified REIT subsidiary is any corporation, other than a "taxable REIT subsidiary" as described below, that is wholly owned by a REIT, or by other disregarded subsidiaries, or by a combination of the two. Other entities that are wholly owned by a REIT, including single member limited liability companies, are also generally disregarded as a separate entities for federal income tax purposes, including for purposes of the REIT income and asset tests. Disregarded subsidiaries, along with partnerships in which Arbor Realty holds an equity interest, are sometimes referred to herein as "pass-through subsidiaries."

In the event that a disregarded subsidiary of Arbor Realty ceases to be wholly owned—for example, if any equity interest in the subsidiary is acquired by a person other than Arbor Realty or another disregarded subsidiary of Arbor Realty—the subsidiary's separate existence would no longer be disregarded for federal income tax purposes. Instead, it would have multiple owners and would be treated as either a partnership or a taxable corporation. Such an event could, depending on the circumstances, adversely affect Arbor Realty's ability to satisfy the various asset and gross income requirements applicable to REITs, including the requirement that REITs generally may not own, directly or indirectly, more than 10% of the securities of another corporation. See "—Asset Tests" and "—Income Tests."

Taxable Subsidiaries. A REIT, in general, may jointly elect with subsidiary corporations, whether or not wholly owned, to treat the subsidiary corporation as a taxable REIT subsidiary ("TRS"). The separate existence of a TRS or other taxable corporation, unlike a disregarded subsidiary as discussed above, is not ignored for federal income tax purposes. Accordingly, such an entity would generally be subject to corporate income tax on its earnings, which may reduce the cash flow generated by Arbor Realty and its subsidiaries in the aggregate, and Arbor Realty's ability to make distributions to its stockholders.

A REIT is not treated as holding the assets of a taxable subsidiary corporation or as receiving any income that the subsidiary earns. Rather, the stock issued by the subsidiary is an asset in the hands of the REIT, and the REIT recognizes as income, the dividends, if any, that it receives from the subsidiary. This treatment can affect the income and asset test calculations that apply to the REIT, as described below. Because a parent REIT does not include the assets and income of such subsidiary corporations in determining the parent's compliance with the REIT requirements, such entities may be used by the parent REIT to undertake indirectly activities that the REIT rules might otherwise preclude it from doing directly or through pass-through subsidiaries (for example, activities that give rise to certain categories of income such as management fees or foreign currency gains).

Income Tests

In order to maintain qualification as a REIT, Arbor Realty annually must satisfy two gross income requirements. First, at least 75% of Arbor Realty's gross income for each taxable year, excluding gross income from sales of inventory or dealer property in "prohibited transactions," must be derived from investments relating to real property or mortgages on real property, including "rents from real property," dividends received from other REITs, interest income derived from mortgage loans secured by real property (including certain types of mortgage backed securities), and gains from the sale of real estate assets, as well as income from some kinds of temporary investments. Second, at least 95% of Arbor Realty's gross income in each taxable year, excluding gross income from prohibited transactions, must be derived from some combination of income that qualifies under the 75% income test described above, as well as other dividends, interest, and gain from the sale or disposition of stock or securities, which need not have any relation to real property.

Interest income constitutes qualifying mortgage interest for purposes of the 75% income test (as described above) to the extent that the obligation is secured by a mortgage on real property. If Arbor Realty receives interest income with respect to a mortgage loan that is secured by both real property and other property, and the highest

principal amount of the loan outstanding during a taxable year exceeds the fair market value of the real property on the date that Arbor Realty acquired or originated the mortgage loan, the interest income will be apportioned between the real property and the other collateral, and Arbor Realty's income from the arrangement will qualify for purposes of the 75% income test only to the extent that the interest is allocable to the real property. Even if a loan is not secured by real property, or is undersecured, the income that it generates may nonetheless qualify for purposes of the 95% income test.

To the extent that the terms of a loan provide for contingent interest that is based on the cash proceeds realized upon the sale of the property securing the loan (a "shared appreciation provision"), income attributable to the participation feature will be treated as gain from sale of the underlying property, which generally will be qualifying income for purposes of both the 75% and 95% gross income tests, provided that the property is not inventory or dealer property in the hands of the borrower or the REIT.

To the extent that a REIT derives interest income from a mortgage loan or income from the rental of real property where all or a portion of the amount of interest or rental income payable is contingent, such income generally will qualify for purposes of the gross income tests only if it is based upon the gross receipts or sales, and not the net income or profits, of the borrower or lessee. This limitation does not apply, however, where the borrower or lessee leases substantially all of its interest in the property to tenants or subtenants, to the extent that the rental income derived by the borrower or lessee, as the case may be, would qualify as rents from real property had it been earned directly by a REIT, as described below.

Rents received by Arbor Realty will qualify as "rents from real property" in satisfying the gross income requirements described above, only if several conditions are met, including the following. If rent is partly attributable to personal property leased in connection with a lease of real property, the portion of the total rent that is attributable to the personal property will not qualify as "rents from real property" unless it constitutes 15% or less of the total rent received under the lease. Moreover, for rents received to qualify as "rents from real property," the REIT generally must not operate or manage the property or furnish or render services to the tenants of such property, other than through an "independent contractor" from which the REIT derives no revenue. Arbor Realty and its affiliates are permitted, however, to perform services that are "usually or customarily rendered" in connection with the rental of space for occupancy only and are not otherwise considered rendered to the occupant of the property. In addition, Arbor Realty and its affiliates may directly or indirectly provide non customary services to tenants of its properties without disqualifying all of the rent from the property if the payment for such services does not exceed 1% of the total gross income from the property. For purposes of this test, the income received from such non-customary services is deemed to be at least 150% of the direct cost of providing the services. Moreover, Arbor Realty is generally permitted to provide services to tenants or others through a TRS without disqualifying the rental income received from tenants for purposes of the REIT income requirements. Also, rental income will generally qualify as rents from real property only to the extent that Arbor Realty does not directly or constructively hold a 10% or greater interest, as measured by vote or value, in the lessee's equity.

Arbor Realty may indirectly receive distributions from TRSs or other corporations that are not REITs or qualified REIT subsidiaries. These distributions will be classified as dividend income to the extent of the earnings and profits of the distributing corporation. Such distributions will generally constitute qualifying income for purposes of the 95% gross income test, but not under the 75% gross income test. Any dividends received by Arbor Realty from a REIT will be qualifying income in Arbor Realty's hands for purposes of both the 95% and 75% income tests.

If Arbor Realty fails to satisfy one or both of the 75% or 95% gross income tests for any taxable year, it may still qualify as a REIT for the year if it is entitled to relief under applicable provisions of the Internal Revenue Code. These relief provisions will generally be available if the failure of Arbor Realty to meet these tests was due to reasonable cause and not due to willful neglect, Arbor Realty attaches to its tax return a schedule of the sources of its income, and any incorrect information on the schedule was not due to fraud with intent to evade tax. It is not possible to state whether Arbor Realty would be entitled to the benefit of these relief provisions in all circumstances. If these relief provisions are inapplicable to a particular set of circumstances involving Arbor Realty, Arbor Realty will not qualify as a REIT. As discussed above under "Taxation of REITs in General," even where these relief provisions apply, a tax would be imposed that is based upon the amount by which Arbor Realty fails to satisfy the particular gross income test.

Asset Tests

Arbor Realty, at the close of each calendar quarter, must also satisfy four tests relating to the nature of its assets. First, at least 75% of the value of the total assets of Arbor Realty must be represented by some combination of "real estate assets," cash, cash items, U.S. government securities, and, under some circumstances, stock or debt instruments purchased with new capital. For this purpose, real estate assets include interests in real property, such as land, buildings, leasehold interests in real property, stock of other corporations that qualify as REITs, and certain kinds of mortgage backed securities and mortgage loans. Assets that do not qualify for purposes of the 75% test are subject to the additional asset tests described below.

The second asset test is that the value of any one issuer's securities owned by Arbor Realty may not exceed 5% of the value of Arbor Realty's total assets. Third, Arbor Realty may not own more than 10% of any one issuer's outstanding securities, as measured by either voting power or value. The 5% and 10% asset tests do not apply to securities of TRSs, and the 10% value test does not apply to "straight debt" having specified characteristics. Fourth, the aggregate value of all securities of TRSs held by a REIT may not exceed 20% of the value of the REIT's total assets.

Notwithstanding the general rule, as noted above, that for purposes of the REIT income and asset tests, a REIT is treated as owning its share of the underlying assets of a subsidiary partnership, if a REIT holds indebtedness issued by a partnership, the indebtedness will be subject to, and may cause a violation of the asset tests, unless it is a qualifying mortgage asset, satisfies the rules for "straight debt," or is sufficiently small so as not to otherwise cause an asset test violation.

Any interests held by a REIT in a real estate mortgage investment conduit, or "REMIC," are generally treated as qualifying real estate assets, and income derived by a REIT from interests in REMICs is generally treated as qualifying income for purposes of the REIT income tests described above. If less than 95% of the assets of a REMIC are real estate assets, however, then only a proportionate part of the REIT's interest in the REMIC, and its income derived from the interest, qualifies for purposes of the REIT asset and income tests. Where a REIT holds a "residual interest" in a REMIC from which it derives "excess inclusion income," the REIT will be required to either distribute the excess inclusion income or pay tax on it (or a combination of the two), even though the income may not be received in cash by the REIT. To the extent that distributed excess inclusion income is allocable to a particular stockholder, the income (i) would not be allowed to be offset by any net operating losses otherwise available to the stockholder, (ii) would be subject to tax as unrelated business taxable income in the hands of most types of stockholders that are otherwise generally exempt from federal income tax, and (iii) would result in the application of U.S. federal income tax withholding at the maximum rate (30%), without reduction for any otherwise applicable income tax treaty, to the extent allocable to most types of foreign stockholders. See "Taxation of Stockholders."

Arbor Realty believes that its holdings of securities and other assets will comply with the foregoing REIT asset requirements, and it intends to monitor compliance on an ongoing basis. Independent appraisals have not been obtained, however, to support Arbor Realty's conclusions as to the value of all of its assets. Moreover, values of some assets may not be susceptible to a precise determination, and values are subject to change in the future. Furthermore, the proper classification of an instrument as debt or equity for federal income tax purposes may be uncertain in some circumstances, which could affect the application of the REIT asset requirements. Accordingly, there can be no assurance that the IRS will not contend that Arbor Realty's interests in subsidiaries or in the securities of other issuers will not cause a violation of the REIT asset requirements.

Annual Distribution Requirements

In order to qualify as a REIT, Arbor Realty is required to distribute dividends, other than capital gain dividends, to its stockholders in an amount at least equal to:

(a) the sum of

(1) 90% of the "REIT taxable income" of Arbor Realty (computed without regard to the deduction for dividends paid and net capital gains of Arbor Realty), and

(2) 90% of the net income, if any, (after tax) from foreclosure property (as described below), minus

(b) the sum of specified items of non-cash income.

These distributions generally must be paid in the taxable year to which they relate, or in the following taxable year if declared before Arbor Realty timely files its tax return for the year and if paid with or before the first regular dividend payment after such declaration. In order for distributions to be counted for this purpose, and to give rise to a tax deduction by Arbor Realty, they must not be "preferential dividends." A dividend is not a preferential dividend if it is pro rata among all outstanding shares of stock within a particular class, and is in accordance with the preferences among different classes of stock as set forth in the organizational documents.

To the extent that Arbor Realty distributes at least 90%, but less than 100%, of its "REIT taxable income," as adjusted, it will be subject to tax at ordinary corporate tax rates on the retained portion. Arbor Realty may elect to retain, rather than distribute, its net long-term capital gains and pay tax on such gains. In this case, Arbor Realty could elect to have its stockholders include their proportionate share of such undistributed long-term capital gains in income and receive a corresponding credit for their share of the tax paid by Arbor Realty. Stockholders of Arbor Realty would then increase the adjusted basis of their Arbor Realty stock by the difference between the designated amounts included in their long-term capital gains and the tax deemed paid with respect to their shares.

To the extent that a REIT has any net operating losses carried forward from prior tax years, such losses may reduce the amount of distributions that it must make in order to comply with the REIT distribution requirements. Such losses, however, will generally not affect the character, in the hands of stockholders, of any distributions that are actually made by the REIT, which are generally taxable to stockholders to the extent that the REIT has current or accumulated earnings and profits. See "Taxation of Stockholders—Taxation of Taxable U.S. Stockholders."

If Arbor Realty fails to distribute during each calendar year at least the sum of (a) 85% of its REIT ordinary income for such year, (b) 95% of its REIT capital gain net income for such year and (c) any undistributed taxable income from prior periods, Arbor Realty will be subject to a 4% excise tax on the excess of such required distribution over the sum of (x) the amounts actually distributed and (y) the amounts of income retained on which it has paid corporate income tax. Arbor Realty intends to make timely distributions so that it is not subject to the 4% excise tax.

It is possible that Arbor Realty, from time to time, may not have sufficient cash to meet the distribution requirements due to timing differences between (a) the actual receipt of cash, including receipt of distributions from its subsidiaries, and (b) the inclusion of items in income by Arbor Realty for federal income tax purposes. Potential sources of non-cash taxable income include loans or mortgage-backed securities held by Arbor Realty as assets that are issued at a discount and require the accrual of taxable economic interest in advance of its receipt in cash, loans on which the borrower is permitted to defer cash payments of interest and distressed loans on which Arbor Realty may be required to accrue taxable interest income even though the borrower is unable to make current servicing payments in cash. In the event that such timing differences occur, in order to meet the distribution requirements, it might be necessary to arrange for short-term, or possibly long-term, borrowings, or to pay dividends in the form of taxable in kind distributions of property.

Arbor Realty may be able to rectify a failure to meet the distribution requirements for a year by paying "deficiency dividends" to stockholders in a later year, which may be included in Arbor Realty's deduction for dividends paid for the earlier year. In this case, Arbor Realty may be able to avoid losing its REIT status or being taxed on amounts distributed as deficiency dividends. However, Arbor Realty will be required to pay interest and a penalty based on the amount of any deduction taken for deficiency dividends.

Failure to Qualify

If Arbor Realty fails to qualify for taxation as a REIT in any taxable year, and the relief provisions do not apply, Arbor Realty will be subject to tax, including any applicable alternative minimum tax, on its taxable income at regular corporate rates. Distributions to stockholders in any year in which Arbor Realty is not a REIT will not be deductible by Arbor Realty, nor will they be required to be made. In this situation, to the extent of current and accumulated earnings and profits, distributions to stockholders will generally be taxable in the case of stockholders who are individuals, at preferential rates, pursuant to the Jobs and Growth Act and, subject to limitations of the Internal Revenue Code, corporate distributees may be eligible for the dividends received deduction. Unless Arbor Realty is entitled to relief under specific statutory provisions, Arbor Realty will also be disqualified from re-electing to be taxed as a REIT for the four taxable years following the year during which qualification was lost. It is not possible to state whether, in all circumstances, Arbor Realty will be entitled to this statutory relief.

Prohibited Transactions

Net income derived from a prohibited transaction is subject to a 100% tax. The term "prohibited transaction" generally includes a sale or other disposition of property (other than foreclosure property) that is held primarily for sale to customers in the ordinary course of a trade or business by a REIT, by a lower-tier partnership in which the REIT holds an equity interest or by a borrower that has issued a shared appreciation mortgage or similar debt instrument to the REIT. Whether property is held "primarily for sale to customers in the ordinary course of a trade or business" depends on the particular facts and circumstances. No assurance can be given that any particular property in which Arbor Realty holds a direct or indirect interest will not be treated as property held for sale to customers, or that certain safe-harbor provisions of the Internal Revenue Code that prevent such treatment will apply. The 100% tax will not apply to gains from the sale of property that is held through a TRS or other taxable corporation, although such income will be subject to tax in the hands of the corporation at regular corporate income tax rates.

Foreclosure Property

Foreclosure property is real property and any personal property incident to such real property (i) that is acquired by a REIT as the result of the REIT having bid in the property at foreclosure, or having otherwise reduced the property to ownership or possession by agreement or process of law, after there was a default (or default was imminent) on a lease of the property or a mortgage loan held by the REIT and secured by the property, (ii) for which the related loan or lease was acquired by the REIT at a time when default was not imminent or anticipated and (iii) for which such REIT makes a proper election to treat the property as foreclosure property. REITs generally are subject to tax at the maximum corporate rate (currently 35%) on any net income from foreclosure property, including any gain from the disposition of the foreclosure property, other than income that would otherwise be qualifying income for purposes of the 75% gross income test. Any gain from the sale of property for which a foreclosure property election has been made will not be subject to the 100% tax on gains from prohibited transactions described above, even if the property would otherwise constitute inventory or dealer property in the hands of the selling REIT. Arbor Realty does not anticipate that it will receive any income from foreclosure property that is not qualifying income for purposes of the 75% gross income test, but, if Arbor Realty does receive any such income, it intends to make an election to treat the related property as foreclosure property.

Foreign Investments

To the extent that Arbor Realty and its subsidiaries hold or acquire any investments and, accordingly, pay taxes, in foreign countries, taxes paid by Arbor Realty in foreign jurisdictions may not be passed through to or used by, its stockholders, as a foreign tax credit or otherwise. Any foreign investments may also generate foreign currency gains and losses. Foreign currency gains are treated as income that does not qualify under the 95% or 75% income tests, unless certain technical requirements are met. No assurance can be given that these technical requirements will be met in the case of any foreign currency gains recognized by Arbor Realty directly or through pass-through subsidiaries, or that any such gains will not adversely affect Arbor Realty's ability to satisfy the REIT qualification requirements.

Derivatives and Hedging Transactions

Arbor Realty and its subsidiaries may enter into hedging transactions with respect to interest rate exposure on one or more of their assets or liabilities. Any such hedging transactions could take a variety of forms, including the use of derivative instruments such as interest rate swap contracts, interest rate cap or floor contracts, futures or forward contracts and options. To the extent that Arbor Realty or a pass-through subsidiary enters into such a contract to reduce interest rate risk on indebtedness incurred to acquire or carry real estate assets, any periodic income from the instrument, or gain from the disposition of it, would be qualifying income for purposes of the REIT 95% gross income test, but not for the 75% gross income test. Recently proposed legislation, if enacted, would exclude such income from the REIT 95% gross income test altogether, treating it as neither qualifying nor non-qualifying income for purposes of that test, while not changing the treatment as non-qualifying income for purposes of the 75% income test. To the extent that Arbor Realty hedges with other types of financial instruments or in other situations (for example, hedging interest rate risk on loans held by Arbor Realty or hedges against fluctuations in the value of foreign currencies), the resultant income will be treated as income that does not qualify under the 95% or 75% income tests unless certain technical requirements are met. Proposed legislation, if enacted, would exclude from the REIT 95% income test calculation, but not from the 75% test, foreign currency gains arising from transactions to hedge risks associated with debt incurred to acquire or carry real estate assets. Arbor Realty intends to structure any hedging transactions in a manner that does not jeopardize its status as a REIT. Arbor Realty may conduct some or all of its hedging activities through a TRS or other corporate entity, the income from which may be subject to federal income tax, rather than participating in the arrangements directly or through pass-through subsidiaries. No assurance can be given, however, that Arbor Realty's hedging activities will not give rise to income that does not qualify for purposes of either or both of the REIT income tests, and will not adversely affect Arbor Realty's ability to satisfy the REIT qualification requirements.

Taxable Mortgage Pools

An entity, or a portion of an entity, may be classified as a taxable mortgage pool ("TMP") under the Internal Revenue Code if (1) substantially all of its assets consist of debt obligations or interests in debt obligations, (2) more than 50% of those debt obligations are real estate mortgages or interests in real estate mortgages as of specified testing dates, (3) the entity has issued debt obligations (liabilities) that have two or more maturities, and (4) the payments required to be made by the entity on its debt obligations (liabilities) "bear a relationship" to the payments to be received by the entity on the debt obligations that it holds as assets. Under regulations issued by the U.S. Treasury Department, if less than 80% of the assets of an entity (or a portion of an entity) consist of debt obligations, these debt obligations are considered not to comprise "substantially all" of its assets, and therefore the entity would not be treated as a TMP. Financing arrangements entered into, directly or indirectly, by Arbor Realty could give rise to TMPs, with the consequences as described below.

Where an entity, or a portion of an entity, is classified as a TMP, it is generally treated as a taxable corporation for federal income tax purposes. In the case of a REIT, or a portion of a REIT, or a disregarded subsidiary of a REIT, that is a TMP, however, special rules apply. The TMP is not treated as a corporation that is subject to corporate income tax, and the TMP classification does not directly affect the tax status of the REIT. Rather, the consequences of the TMP classification would, in general, except as described below, be limited to the stockholders of the REIT. The Treasury Department has not yet issued regulations to govern the treatment of stockholders as described below. A portion of the REIT's income from the TMP arrangement, which might be non-cash accrued income, could be treated as "excess inclusion income." The REIT's excess inclusion income would be allocated among its stockholders. A stockholder's share of excess inclusion income (i) would not be allowed to be offset by any net operating losses otherwise available to the stockholder, (ii) would be subject to tax as unrelated business taxable income in the hands of most types of stockholders that are otherwise generally exempt from federal income tax, and (iii) would result in the application of U.S. federal income tax withholding at the maximum rate (30%), without reduction for any otherwise applicable income tax treaty, to the extent allocable to most types of foreign stockholders. See "Taxation of Stockholders." To the extent that excess inclusion income were allocated to a tax-exempt stockholder of a REIT that is not subject to unrelated business income tax (such as government entities), the REIT would be taxable on this income at the highest applicable corporate tax rate (currently 35%). The manner in which excess inclusion income would be allocated among shares of different classes of stock is not clear under current law. Tax-exempt investors, foreign investors and taxpayers with net operating losses should carefully consider the tax consequences described above and are urged to consult their tax advisors.

If a subsidiary partnership, not wholly owned by Arbor Realty directly or through one or more disregarded entities (such as the operating partnership), were a TMP, the foregoing rules would not apply. Rather, the partnership that is a TMP would be treated as a corporation for federal income tax purposes, and would potentially be subject to corporate income tax. In addition, this characterization would alter Arbor Realty's REIT income and asset test calculations, and could adversely affect its compliance with those requirements. Arbor Realty intends to monitor the structure of any TMPs in which it has an interest to ensure that they will not adversely affect its status as a REIT.

Tax Aspects of Investments in Partnerships

General

Arbor Realty may hold investments through entities that are classified as partnerships for federal income tax purposes, including its interest in the operating partnership and the preferred equity interests in lower-tier partnerships. In general, partnerships are "pass-through" entities that are not subject to federal income tax. Rather, partners are allocated their proportionate shares of the items of income, gain, loss, deduction and credit of a partnership, and are potentially subject to tax on these items, without regard to whether the partners receive a distribution from the partnership. Arbor Realty will include in its income its proportionate share of these partnership items for purposes of the various REIT income tests and in the computation of its REIT taxable income. Moreover, for purposes of the REIT asset tests, Arbor Realty will include its proportionate share of assets held by subsidiary partnerships. See "Taxation of Arbor Realty—Effect of Subsidiary Entities—Ownership of Partnership Interests."

Consequently, to the extent that Arbor Realty holds a preferred or other equity interest in a partnership, the partnership's assets and operations may affect Arbor Realty's ability to qualify as a REIT, even though Arbor Realty may have no control, or only limited influence, over the partnership.

Entity Classification

The investment by Arbor Realty in partnerships involves special tax considerations, including the possibility of a challenge by the IRS of the status of any of Arbor Realty's subsidiary partnerships as a partnership, as opposed to an association taxable as a corporation, for federal income tax purposes (for example, if the IRS were to assert that a subsidiary partnership is a TMP). See "Taxation of Arbor Realty—Taxable Mortgage Pools." If any of these entities were treated as an association for federal income tax purposes, it would be taxable as a corporation and therefore could be subject to an entity-level tax on its income. In such a situation, the character of the assets of Arbor Realty and items of gross income of Arbor Realty would change and could preclude Arbor Realty from satisfying the REIT asset tests (particularly the tests generally preventing a REIT from owning more than 10% of the voting securities, or more than 10% of the securities by value, of a corporation) or the gross income tests as discussed in "Taxation of Arbor Realty—Asset Tests" and "—Income Tests," and in turn could prevent Arbor Realty from qualifying as a REIT. See "Taxation of Arbor Realty—Failure to Qualify," above, for a discussion of the effect of the failure of Arbor Realty to meet these tests for a taxable year. In addition, any change in the status of any of Arbor Realty's subsidiary partnerships for tax purposes might be treated as a taxable event, in which case Arbor Realty could have taxable income that is subject to the REIT distribution requirements without receiving any cash.

Tax Allocations with Respect to Partnership Properties

Under the Internal Revenue Code and the Treasury regulations, income, gain, loss and deduction attributable to appreciated or depreciated property that is contributed to a partnership in exchange for an interest in the partnership must be allocated for tax purposes in a manner such that the contributing partner is charged with, or benefits from, the unrealized gain or unrealized loss associated with the property at the time of the contribution. The amount of the unrealized gain or unrealized loss is generally equal to the difference between the fair market value of the contributed property at the time of contribution, and the adjusted tax basis of such property at the time of contribution (a "book-tax difference"). Such allocations are solely for federal income tax purposes and do not affect the book capital accounts or other economic or legal arrangements among the partners.

To the extent that any subsidiary partnership of Arbor Realty acquires appreciated (or depreciated) properties by way of capital contributions from its partners, allocations would need to be made in a manner consistent with these requirements. Where a partner contributes cash to a partnership at a time that the partnership holds appreciated (or depreciated) property, the Treasury regulations provide for a similar allocation of these items to the other (i.e. non-contributing) partners. These rules may apply to the contribution by Arbor Realty to any subsidiary partnerships of the cash proceeds received in offerings of its stock. As a result, partners, including Arbor Realty, in subsidiary partnerships, could be allocated greater or lesser amounts of depreciation and taxable income in respect of a partnership's properties than would be the case if all of the partnership's assets (including any contributed assets) had a tax basis equal to their fair market values at the time of any contributions to that partnership. This could cause Arbor Realty to recognize, over a period of time, taxable income in excess of cash flow from the partnership, which might adversely affect Arbor Realty's ability to comply with the REIT distribution requirements discussed above.

Taxation of Stockholders

Taxation of Taxable U.S. Stockholders

This section summarizes the taxation of U.S. stockholders that are not tax-exempt organizations. For these purposes, a U.S. stockholder is a holder of common stock that for U.S. federal income tax purposes is:

- a citizen or resident of the United States;
- a corporation (including an entity treated as a corporation for U.S. federal income tax purposes) created or organized in or under the laws of the United States or of a political subdivision thereof;
- an estate whose income is subject to U.S. federal income taxation regardless of its source; or
- any trust if (1) a U.S. court is able to exercise primary supervision over the administration of such trust and one or more U.S. persons have the authority to control all substantial decisions of the trust or (2) it has a valid election in place to be treated as a U.S. person.

If a partnership, including for this purpose any entity treated as a partnership for U.S. federal income tax purposes, holds common stock or warrants issued by Arbor Realty, the tax treatment of a partner in the partnership will generally depend upon the status of the partner and the activities of the partnership. An investor that is a partnership and the partners in such partnership should consult their tax advisors about the U.S. federal income tax consequences of the acquisition, ownership and disposition of common stock and warrants.

Distributions. Provided that Arbor Realty qualifies as a REIT, distributions made to its taxable U.S. stockholders out of current or accumulated earnings and profits, and not designated as capital gain dividends, will generally be taken into account by them as ordinary income but will not be eligible for the dividends received deduction for corporations. Dividends received from REITs are generally not eligible to be taxed at the preferential qualified dividend income rates (15% maximum federal rate through 2008) applicable to individuals who receive dividends from taxable C corporations pursuant to the Jobs and Growth Act. An exception applies, however, and individual stockholders are taxed at such rates on dividends designated by and received from REITs, to the extent that the dividends are attributable to (i) income that the REIT previously retained in the prior year, and on which it was subject to corporate level tax, (ii) dividends received by the REIT from TRSs or other taxable C corporations, or (iii) income from sales of appreciated property acquired from C corporations in carryover basis transactions.

In addition, distributions from Arbor Realty that are designated as capital gain dividends will be taxed to stockholders as long-term capital gains, to the extent that they do not exceed the actual net capital gain of Arbor Realty for the taxable year, without regard to the period for which the stockholder has held its stock. A similar treatment will apply to long-term capital gains retained by Arbor Realty, to the extent that Arbor Realty elects the application of provisions of the Internal Revenue Code that treat stockholders of a REIT as having received, for federal income tax purposes, undistributed capital gains of the REIT, while passing through to stockholders a corresponding credit for taxes paid by the REIT on such retained capital gains. Corporate stockholders may be required to treat up to 20% of some capital gain dividends as ordinary income. Long-term capital gains are generally taxable at maximum federal rates of 15% (through 2008) in the case of stockholders who are individuals, and 35% for corporations. Capital gains attributable to the sale of depreciable real property held for more than 12

months are subject to a 25% maximum federal income tax rate for taxpayers who are individuals, to the extent of previously claimed depreciation deductions.

Distributions in excess of current and accumulated earnings and profits will not be taxable to a stockholder to the extent that they do not exceed the adjusted basis of the stockholder's shares in respect of which the distributions were made, but rather, will reduce the adjusted basis of these shares. To the extent that such distributions exceed the adjusted basis of a stockholder's shares, they will be included in income as long-term capital gain, or short-term capital gain if the shares have been held for one year or less. In addition, any dividend declared by Arbor Realty in October, November or December of any year and payable to a stockholder of record on a specified date in any such month will be treated as both paid by Arbor Realty and received by the stockholder on December 31 of such year, provided that the dividend is actually paid by Arbor Realty before the end of January of the following calendar year.

To the extent that a REIT has available net operating losses and capital losses carried forward from prior tax years, such losses may reduce the amount of distributions that must be made in order to comply with the REIT distribution requirements. See "Taxation of Arbor Realty—Annual Distribution Requirements." Such losses, however, are not passed through to stockholders and do not offset income of stockholders from other sources, nor do they affect the character of any distributions that are actually made by a REIT, which are generally subject to tax in the hands of stockholders to the extent that the REIT has current or accumulated earnings and profits.

If excess inclusion income from a REMIC residual interest or taxable mortgage pool is allocated to any Arbor Realty stockholder, that income will be taxable in the hands of the stockholder and would not be offset by any net operating losses of the stockholder that would otherwise be available. See "Taxation of Arbor Realty—Taxable Mortgage Pools."

Dispositions of Arbor Realty Stock. In general, capital gains recognized by individuals upon the sale or disposition of shares of Arbor Realty stock will, pursuant to the Jobs and Growth Act, be subject to a maximum federal income tax rate of 15% for taxable years through 2008, if the Arbor Realty stock is held for more than 12 months, and will be taxed at ordinary income rates (of up to 35% through 2010) if the Arbor Realty stock is held for 12 months or less. Gains recognized by stockholders that are corporations are subject to federal income tax at a maximum rate of 35%, whether or not classified as long-term capital gains. Capital losses recognized by a stockholder upon the disposition of Arbor Realty stock held for more than one year at the time of disposition will be considered long-term capital losses, and are generally available only to offset capital gain income of the stockholder but not ordinary income (except in the case of individuals, who may offset up to $3,000 of ordinary income each year). In addition, any loss upon a sale or exchange of shares of Arbor Realty stock by a stockholder who has held the shares for six months or less, after applying holding period rules, will be treated as a long-term capital loss to the extent of distributions received from Arbor Realty that are required to be treated by the stockholder as long-term capital gain.

If a stockholder recognizes a loss upon a subsequent disposition of Arbor Realty stock in an amount that exceeds a prescribed threshold, it is possible that the provisions of recently adopted Treasury regulations involving "reportable transactions" could apply, with a resulting requirement to separately disclose the loss generating transaction to the IRS. While these regulations are directed towards "tax shelters," they are written quite broadly, and apply to transactions that would not typically be considered tax shelters. In addition, legislative proposals have been introduced in Congress, that, if enacted, would impose significant penalties for failure to comply with these requirements. You should consult your tax advisors concerning any possible disclosure obligation with respect to the receipt or disposition of Arbor Realty stock, or transactions that might be undertaken directly or indirectly by Arbor Realty. Moreover, you should be aware that Arbor Realty and other participants in transactions involving Arbor Realty (including their advisors) might be subject to disclosure or other requirements pursuant to these regulations.

Taxation of Non-U.S. Stockholders

The following is a summary of certain United States federal income and estate tax consequences of the ownership and disposition of Arbor Realty stock applicable to non-U.S. holders of Arbor Realty stock. The

discussion is based on current law and is for general information only. It addresses only selective and not all aspects of United States federal income and estate taxation.

Ordinary Dividends. The portion of dividends received by non-U.S. holders payable out of the earnings and profits of Arbor Realty which are not attributable to capital gains of Arbor Realty and which are not effectively connected with a U.S. trade or business of the non-U.S. holder will generally be subject to U.S. withholding tax at the rate of 30%, unless reduced by treaty. Reduced treaty rates are not available to the extent that income is excess inclusion income allocated to the foreign stockholder. See "Taxation of Arbor Realty—Taxable Mortgage Pools."

In general, non-U.S. holders will not be considered to be engaged in a U.S. trade or business solely as a result of their ownership of Arbor Realty stock. In cases where the dividend income from a non-U.S. holder's investment in Arbor Realty stock is, or is treated as, effectively connected with the non-U.S. holder's conduct of a U.S. trade or business, the non-U.S. holder generally will be subject to U.S. tax at graduated rates, in the same manner as U.S. stockholders are taxed with respect to such dividends, and may also be subject to the 30% branch profits tax in the case of a non-U.S. holder that is a corporation.

Non-dividend Distributions. Unless Arbor Realty stock constitutes a U.S. real property interest (a "USRPI"), distributions by Arbor Realty which are not dividends out of the earnings and profits of Arbor Realty will not be subject to U.S. income tax. If it cannot be determined at the time at which a distribution is made whether or not the distribution will exceed current and accumulated earnings and profits, the distribution will be subject to withholding at the rate applicable to dividends. However, the non-U.S. holder may seek a refund from the IRS of any amounts withheld if it is subsequently determined that the distribution was, in fact, in excess of Arbor Realty's current and accumulated earnings and profits. If Arbor Realty stock constitutes a USRPI, as described below, distributions by Arbor Realty in excess of the sum of its earnings and profits plus the stockholder's basis in its Arbor Realty stock will be taxed under the Foreign Investment in Real Property Tax Act of 1980 ("FIRPTA") at the rate of tax, including any applicable capital gains rates, that would apply to a U.S. stockholder of the same type (e.g., an individual or a corporation, as the case may be), and the collection of the tax will be enforced by a refundable withholding at a rate of 10% of the amount by which the distribution exceeds the stockholder's share of Arbor Realty's earnings and profits.

Capital Gain Dividends. Under FIRPTA, a distribution made by Arbor Realty to a non-U.S. holder, to the extent attributable to gains from dispositions of USRPIs held by Arbor Realty directly or through pass-through subsidiaries ("USRPI capital gains"), will be considered effectively connected with a U.S. trade or business of the non-U.S. holder and will be subject to U.S. income tax at the rates applicable to U.S. individuals or corporations, without regard to whether the distribution is designated as a capital gain dividend. In addition, Arbor Realty will be required to withhold tax equal to 35% of the amount of dividends to the extent the dividends constitute USRPI capital gains. Recently proposed legislation, if enacted, would modify the tax treatment of capital gain dividends distributed by REITs to non-U.S. holders. See "Other Tax Considerations – Legislative or Other Actions Affecting REITs." Distributions subject to FIRPTA may also be subject to a 30% branch profits tax in the hands of a non-U.S. holder that is a corporation. A distribution is not a USRPI capital gain if Arbor Realty held the underlying asset solely as a creditor, although the holding of a shared appreciation mortgage loan or similarly instrument would not be solely as a creditor. Capital gain dividends received by a non-U.S. holder from a REIT that are not USRPI capital gains are generally not subject to U.S. income or withholding tax.

Dispositions of Arbor Realty Stock. Unless Arbor Realty stock constitutes a USRPI, a sale of the stock by a non-U.S. holder generally will not be subject to U.S. taxation under FIRPTA. The stock will not be treated as a USRPI if less than 50% of Arbor Realty's assets throughout a prescribed testing period consist of interests in real property located within the United States, excluding, for this purpose, interests in real property solely in a capacity as a creditor.

Even if the foregoing test is not met, Arbor Realty stock nonetheless will not constitute a USRPI if Arbor Realty is a "domestically controlled REIT." A domestically controlled REIT is a REIT in which, at all times during a specified testing period, less than 50% in value of its shares is held directly or indirectly by non-U.S. holders. Arbor Realty believes that it is, and it expects to continue to be, a domestically controlled REIT and, therefore, the sale of Arbor Realty stock should not be subject to taxation under FIRPTA. Because Arbor Realty stock is transferable, however, no assurance can be given that Arbor Realty will be a domestically controlled REIT.

In the event that Arbor Realty does not constitute a domestically controlled REIT, a non-U.S. holder's sale of stock nonetheless will generally not be subject to tax under FIRPTA as a sale of a USRPI, provided that (a) the stock owned is of a class that is "regularly traded," as defined by applicable Treasury Department regulations, on an established securities market, and (b) the selling non-U.S. holder held 5% or less of Arbor Realty's outstanding stock of that class at all times during a specified testing period.

If gain on the sale of stock of Arbor Realty were subject to taxation under FIRPTA, the non-U.S. holder would be subject to the same treatment as a U.S. stockholder with respect to such gain, subject to applicable alternative minimum tax and a special alternative minimum tax in the case of nonresident alien individuals, and the purchaser of the stock could be required to withhold 10% of the purchase price and remit such amount to the IRS.

Gain from the sale of Arbor Realty stock that would not otherwise be subject to FIRPTA will nonetheless be taxable in the United States to a non-U.S. holder in two cases: (a) if the non-U.S. holder's investment in the Arbor Realty stock is effectively connected with a U.S. trade or business conducted by such non-U.S. holder, the non-U.S. holder will be subject to the same treatment as a U.S. stockholder with respect to such gain, or (b) if the non-U.S. holder is a nonresident alien individual who was present in the United States for 183 days or more during the taxable year and has a "tax home" in the United States, the nonresident alien individual will be subject to a 30% tax on the individual's capital gain.

Estate Tax. Arbor Realty stock owned or treated as owned by an individual who is not a citizen or resident (as specially defined for U.S. federal estate tax purposes) of the United States at the time of death will be includable in the individual's gross estate for U.S. federal estate tax purposes, unless an applicable estate tax treaty provides otherwise, and may therefore be subject to U.S. federal estate tax.

Taxation of Tax-Exempt Stockholders

Tax-exempt entities, including qualified employee pension and profit sharing trusts and individual retirement accounts, generally are exempt from federal income taxation. However, they are subject to taxation on their unrelated business taxable income ("UBTI"). While some investments in real estate may generate UBTI, the IRS has ruled that dividend distributions from a REIT to a tax-exempt entity do not constitute UBTI. Based on that ruling, and provided that (1) a tax-exempt stockholder has not held its Arbor Realty stock as "debt financed property" within the meaning of the Internal Revenue Code (i.e. where the acquisition or holding of the property is financed through a borrowing by the tax-exempt stockholder), and (2) the Arbor Realty stock is not otherwise used in an unrelated trade or business, distributions from Arbor Realty and income from the sale of the Arbor Realty stock should not give rise to UBTI to a tax-exempt stockholder. To the extent, however, that Arbor Realty (or a part of Arbor Realty, or a disregarded subsidiary of Arbor Realty) is a TMP, or if Arbor Realty holds residual interests in a REMIC, a portion of the dividends paid to a tax-exempt stockholder that is allocable to excess inclusion income may be subject to tax as UBTI. See "Taxation of Arbor Realty—Taxable Mortgage Pools."

Tax-exempt stockholders that are social clubs, voluntary employee benefit associations, supplemental unemployment benefit trusts and qualified group legal services plans exempt from federal income taxation under sections 501 (c) (7), (c) (9), (c) (17) and (c) (20) of the Internal Revenue Code, respectively, are subject to different UBTI rules, which generally will require them to characterize distributions from Arbor Realty as UBTI.

In certain circumstances, a pension trust that owns more than 10% of Arbor Realty's stock could be required to treat a percentage of the dividends from Arbor Realty as UBTI, if Arbor Realty is a "pension-held REIT." Arbor Realty will not be a pension-held REIT unless either (A) one pension trust owns more than 25% of the value of Arbor Realty's stock, or (B) a group of pension trusts, each individually holding more than 10% of the value of Arbor Realty's stock, collectively owns more than 50% of such stock. Certain restrictions on ownership and transfer of Arbor Realty's stock should generally prevent a tax-exempt entity from owning more than 10% of the value of Arbor Realty's stock, or Arbor Realty from becoming a pension-held REIT.

Tax-exempt stockholders are urged to consult their tax advisors regarding the federal, state, local and foreign tax consequences of owning Arbor Realty stock.

Tax Aspects of Warrants

Allocation of Purchase Price Between the Shares and the Warrants. For U.S. Federal income tax purposes, your acquisition of a unit will be treated as an acquisition of a unit consisting of two components: five shares of common stock and a warrant to purchase one share of common stock. The purchase price for each unit will be allocated between those components in proportion to their respective fair market values at the time of purchase, and such allocation will establish your initial tax basis in the common shares and the warrant that comprise each unit.

Sale or Exchange of Warrants. Upon the sale or exchange of a warrant, a warrant holder generally will recognize taxable capital gain or loss equal to the difference between (i) the sum of the amount of cash and the fair market value of property received in exchange therefor, and (ii) the warrant holder's tax basis in the warrant, as described above. Capital gain or loss recognized by a warrant holder upon the sale or exchange of a warrant generally will be long-term capital gain or loss if the holding period with respect to the warrant is more than one year.

Exercise of Warrants. A warrant holder generally will not recognize taxable gain or loss upon the exercise of a warrant by paying the exercise price in cash. The warrant holder's adjusted tax basis in the shares received upon exercise will equal the sum of the warrant holder's tax basis in the warrant immediately prior to exercise plus the exercise price. Similarly, a warrant holder should not recognize taxable gain or loss to the extent it exercises a warrant and pays the exercise price with shares of Arbor Realty common stock. In that case, the basis of the newly acquired shares would include the basis of the shares surrendered in exchange therefor.

The tax treatment of a warrant holder that elects to pay the exercise price by surrendering additional warrants for cancellation (a "Cashless Exercise") is uncertain. Such an exercise may, for example, be treated as a tax-free recapitalization, in which case a warrant holder's tax basis in the common stock received would equal the tax basis in the surrendered warrants. It is also possible that a Cashless Exercise could be treated as a taxable exchange in which gain or loss should be recognized. Due to the absence of authority as to the federal income tax treatment of a warrant holder making a Cashless Exercise, there can be no assurance which, if any, of the alternative tax consequences described above, or of other possible characterizations of a Cashless Exercise, would be adopted by the IRS or a court of law. Accordingly, warrant holders should consult their tax advisors as to the tax consequences of making a Cashless Exercise.

Lapse of Warrants. The lapse or expiration without exercising a warrant generally will result in a capital loss to the warrant holder equal to the warrant holder's tax basis in the warrant. The deductibility of capital losses is subject to limitation. This capital loss will be a long-term capital loss if the holding period with respect to such warrant is more than one year.

Holding Period. The holding period for shares received upon exercise of a warrant will begin on the day after the warrant is exercised. To the extent that a warrant is exercised using common stock owned by the warrant holder, the holding period of the common stock received on exercise will include the holding period of the shares surrendered.

As discussed above, the tax consequences of a warrant holder making a Cashless Exercise are uncertain. If such an exercise is tax free because it qualifies as a tax-free recapitalization, the holding period of such common stock would include the holding period of the surrendered warrants. If such an exercise is taxable, then the holding period for the shares actually received upon the exercise of warrants would begin on the day after the warrants are exercised and would not include the period during which the warrants were held.

Disposition of Shares Issued Upon Exercise of a Warrant. Upon a taxable disposition of shares issued upon exercise of warrants, a warrant holder generally will recognize capital gain or loss equal to the difference between (i) the amount of cash and the fair market value of other property received, and (ii) the warrant holder's adjusted tax basis in the shares. Such gain or loss generally will be long-term capital gain or loss if the holding period with respect to such shares is more than one year.

Adjustments to the Warrants. Pursuant to the terms of the warrants, the exercise price is subject to adjustment from time to time upon the occurrence of specified events. These adjustments should not give rise to a deemed taxable exchange of the warrants to the extent such adjustments are pursuant to the original terms of the warrants. However, under certain circumstances, a change in conversion ratio or any transaction having a similar effect on the interest of a warrant holder may be treated as a taxable distribution with respect to any warrant holder whose proportionate interest in the earnings and profits of the Company is increased by such change or transaction (even though no cash is received).

Other Tax Considerations

Legislative or Other Actions Affecting REITs

The recently enacted Jobs and Growth Tax Relief Reconciliation Act of 2003 reduced the rates at which individuals are taxed on capital gains (a maximum rate of 15% replaces the prior maximum rate of 20%, through 2008), and gains from the stock of REITs are eligible for the reduced rates. Tax rates for individuals on dividends received from taxable C corporations were also reduced (with the maximum rate falling from 38.6% to 15% for tax years through 2008), although dividends received from REITs would generally continue to be taxed at regular ordinary income rates (now at a maximum rate of 35% through 2010). See “Taxation of Stockholders – Taxation of Taxable U.S. Stockholders – Distributions.” This change in the tax treatment of dividends could cause investors to perceive investments in REITs to be comparatively less attractive than investments in other corporations, which could adversely affect the value of the stock of REITs, including Arbor Realty.

Recently proposed legislation would modify the tax treatment of capital gain dividends distributed by REITs to non-U.S. stockholders. See “Taxation of Stockholders –Taxation of Non-U.S. Stockholders – Capital Gain Dividends.” The proposed legislation would treat capital gain dividends received by a non-U.S. stockholder in the same manner as ordinary income dividends, provided that (1) the capital gain dividends are received with respect to a class of stock that is regularly traded on an established securities market located in the United States, and (2) the non-U.S. stockholder does not own more than 5% of that class of stock at any time during the taxable year in which the capital gain dividends are received. Another proposal would modify the effect of specified types of hedging income on the REIT 95% gross income requirement. See “Taxation of Arbor Realty – Derivatives and Hedging Transactions.” These proposals would apply to taxable years beginning after the date of enactment.

The rules dealing with federal income taxation are constantly under review by persons involved in the legislative process and by the IRS and the U.S. Treasury Department. No assurance can be given as to whether, or in what form, the legislative proposals described above (or any other proposals affecting REITs or their stockholders) will be enacted. Changes to the federal tax laws and interpretations of federal tax laws could adversely affect an investment in Arbor Realty.

State, Local and Foreign Taxes

Arbor Realty and its subsidiaries and stockholders may be subject to state, local or foreign taxation in various jurisdictions, including those in which it or they transact business, own property or reside. Arbor Realty owns interests in properties located in a number of jurisdictions, and may be required to file tax returns in certain of those jurisdictions. The state, local or foreign tax treatment of Arbor Realty and its stockholders may not conform to the federal income tax treatment discussed above. Any foreign taxes incurred by Arbor Realty would not pass through to stockholders as a credit against their United States federal income tax liability. Prospective investors should consult their tax advisors regarding the application and effect of state, local and foreign income and other tax laws on an investment in common stock and warrants of Arbor Realty.

ERISA CONSIDERATIONS

The Employee Retirement Income Security Act of 1974, as amended or ERISA, and Section 4975 of the Internal Revenue Code impose certain restrictions on (a) employee benefit plans (as defined in Section 3(3) of ERISA) that are subject to Title I of ERISA, (b) plans (as defined in Section 4975 (e) (1) of the Internal Revenue Code) that are subject to Section 4975 of the Internal Revenue Code, including individual retirement accounts or Keogh plans, (c) any entities whose underlying assets include plan assets by reason of such a plan's investment in such entities, each of (a), (b) and (c), a Plan and (d) persons who have certain specified relationships to Plans (referred to as "parties in interest" under ERISA and "disqualified persons" under the Internal Revenue Code). Moreover, based on the reasoning of the United States Supreme Court in *John Hancock Life Ins. Co. v. Harris Trust and Sav. Bank*, 510 U.S. 86 (1993), an insurance company's general account may be deemed to include assets of the plans investing in the general account (for example, through the purchase of an annuity contract), and such insurance company might be treated as a party in interest with respect to a plan by virtue of such investment. ERISA also imposes certain duties on persons who are fiduciaries of plans subject to ERISA, and ERISA and Section 4975 of the Internal Revenue Code prohibit certain transactions between a plan and parties in interest or disqualified persons with respect to such plan. Violations of these rules may result in the imposition of excise taxes and other penalties and liabilities under ERISA and the Internal Revenue Code.

ERISA and Section 4975 of the Internal Revenue Code prohibit a broad range of transactions involving plan assets and parties in interest and disqualified persons, unless a statutory or administrative exemption is available. Parties in interest and disqualified persons that participate in a prohibited transaction may be subject to a penalty imposed under ERISA and/or an excise tax imposed pursuant to Section 4975 of the Internal Revenue Code, unless a statutory or administrative exemption is available. These prohibited transactions generally are set forth in Section 406 of ERISA and Section 4975 of the Internal Revenue Code.

In addition, under Department of Labor Regulation Section 2510.3 101, 29 C.F.R. 2510.3-101 (the "Plan Assets Regulation"), the purchase with plan assets of equity interests in us would cause our assets to be deemed plan assets of the investing Plan which, in turn, would subject us and our assets to the fiduciary responsibility provisions of ERISA and the prohibited transaction provisions of ERISA and Section 4975 of the Internal Revenue Code unless an exception to this regulation is applicable.

One exception under the Department of Labor's Plan Assets Regulation provides that an investing Plan's assets will not include any of the underlying assets of an entity if at all times less than 25% of each class of "equity" interests in the entity is held by "benefit plan investors." The term "Benefit Plan Investor" is defined to include any (1) "employee benefit plan" (as defined in Section 3 (3) of ERISA), whether or not subject to Title I of ERISA, including without limitation governmental plans, foreign pension plans and church plans, (2) "plan" (as defined in Section 4975 (e) (1) of the Internal Revenue Code), whether or not subject to Section 4975 of the Internal Revenue Code, including without limitation individual retirement accounts and Keogh plans or (3) entity whose underlying assets include plan assets by reason of such an employee benefit plan's or plan's investment in such entity, including without limitation, as applicable, an insurance company general account. The offered securities will be treated as "equity interests" in us for purposes of the Plan Assets Regulation and there can be no assurance that the value of the offered securities held by Benefit Plan Investors will be less than 25% of the total value of offered securities at the completion of this offer or thereafter. No monitoring or other measures will be taken with respect to the satisfaction of the conditions to this exception. Certain transactions involving us could be deemed to constitute direct or indirect prohibited transactions if our assets were deemed to be "plan assets" of plans acquiring the offered securities.

Another exception under the Plan Assets Regulation provides that an investing plan's assets will not include any of the underlying assets of an entity if the class of "equity" interests in question are "publicly offered securities," defined as securities that are (1) held by 100 or more investors who are independent of the issuer and each other, (2) freely transferable, and (3) either (a) part of a class of securities registered under Section 12(b) or 12(g) of the Exchange Act or (b) sold to the plan as part of an offering of securities to the public under an effective registration statement under the Securities Act and the class of securities of which that security is part is registered under the Exchange Act within the requisite time.

Accordingly, prior to the time that the offered securities qualify as "publicly offered securities" pursuant to the plan assets regulation or until another exception to the regulation is applicable, investors using assets of Plans subject to ERISA or Section 4975 of the Internal Revenue Code (including, as applicable, assets of an insurance company general account) will not be permitted to acquire the offered securities and each investor will be deemed to have represented to us that it is not, and is not using of, a Plan subject to Title I of ERISA or Section 4975 of the Internal Revenue Code.

Any investor that is, or is using assets of, a Plan that is subject to Title I of ERISA or Section 4975 of the Code is required to contact us before purchasing any offered securities to determine whether the offered securities qualify, at that time, as "publicly offered securities" or whether some other exception to the Plan Assets Regulation applies.

Any purchaser that is an insurance company using the assets of an insurance company general account should note that pursuant to Section 401(c), the Department of Labor issued final regulations (the "General Account Regulations") providing that the assets of an insurance company general account will not be treated as "plan assets" for purposes of the fiduciary responsibility provisions of ERISA and Section 4975 of the Code to the extent such assets relate to contracts issued to employee benefit plans on or before December 31, 1998 and the insurer satisfies various conditions. The plan asset status of insurance company separate accounts is unaffected by Section 401 (c) of ERISA, and separate account assets continue to be treated as the plan assets of any such plan invested in a separate account.

Certain employee benefit plans, such as governmental plans (as defined in Section 3(32) of ERISA) and certain church plans (as defined in Section 3(33) of ERISA), are not subject to the requirements of ERISA or Section 4975 of the Code. Accordingly, assets of such plans may be invested in the offered securities without regard to the ERISA considerations described herein, subject to the provisions or other applicable federal and state law. However, any such plan that is qualified and exempt from taxation under Sections 401 (a) and 501 (a) of the Code is subject to the prohibited transaction rules set forth in Section 503 of the Code.

SELLING STOCKHOLDERS

The units were originally issued and sold by us in the original offering on July 1, 2003. 1,327,989 of these units were sold to JMP, as initial purchaser, and were simultaneously resold by JMP in transactions exempt from the registration requirements of the Securities Act to persons reasonably believed by the initial purchaser to be "qualified institutional buyers" (as defined in Rule 144A under the Securities Act), to a limited number of institutional "accredited investors" (as defined in Rule 501 (a) (1), (2), (3), (7) or (8) under the Securities Act). The remaining 282,011 units were sold directly by us to individual "accredited investors" (as defined in Rule 501 (a) (4), (5) or (6) under the Securities Act). Certain investors in the original offering included institutions and persons affiliated with JMP and us. The selling stockholders may from time to time offer and sell pursuant to this prospectus any or all of the offered securities. The term selling stockholders includes the holders listed below and the beneficial owners of the offered securities and their transferees, pledgees, donees or other successors.

The following table sets forth information, as of October 8, 2003, with respect to the selling stockholders and offered securities beneficially owned by each selling stockholder that may be offered pursuant to this prospectus.

Selling Securityholder	Number of Units Beneficially Owned and Offered [1]	Percentage of Class Beneficially Owned Before Resale	Number of Units Beneficially Owned after Resale
Holders of Units (Unaffiliated with the Company)			
Alan L. Stein and Ruth S. Stein	3,333	*	0
Anthony Avila & Jacquelyn Avila	250	*	0
Archon Partners LP	9,210	*	0
Ascend Offshore Fund, LTD	17,485	1.1%	0
Ascend Partners LP	2,542	*	0
Ascend Partners Sapient LP	4,973	*	0
Barbara Meltzer	1,333	*	0
Bay Pond Partners, L.P.	71,900	4.4%	0
Boston Partners Asset Management, L.P.	28,000	1.7%	0
Boston Provident Partners, L.P.	7,550	*	0
BP Institutional Partners, L.P.	450	*	0
BP Real Estate Investments, Inc.	19,100	1.2%	0
Bricoleur Capital Management, LLC	50,000	3.0%	0
Central States Southeast & Southwest Areas Pension	12,900	*	0
Condor Partners LP	13,570	*	0
Craig R. Johnson & Nichola Jo Johnson	3,600	*	0
Cumber International	4,745	*	0
Cumberland Benchmarked Partners, L.P.	6,742	*	0
Cumberland Partners	33,912	2.1%	0
Cuong Q. Dinh	200	*	0
David R. Wilmerding, III	20,000	1.2%	0
Eric Lippe	4,000	*	0
Farallon Capital Institutional Partners, L.P.	56,500	3.5%	0
Farallon Capital Institutional Partners II, L.P.	5,400	*	0
Farallon Capital Institutional Partners III, L.P.	7,500	*	0
Farallon Capital Partners, L.P.	57,900	3.5%	0
Farbitrage Partners	6,000	*	0
Financial Stocks Capital Partners II L.P.	36,000	2.2%	0
First Financial Fund, Inc.	77,000	4.7%	0
Franklin Microcap Value Fund	45,000	2.7%	0
Fredericks Investments, LP	781	*	0
Gary M. Meltzer	1,000	*	0
Gerald L. Tuttle, Jr.	200	*	0

Selling Securityholder	Number of Units Beneficially Owned and Offered [1]	Percentage of Class Beneficially Owned Before Resale	Number of Units Beneficially Owned after Resale
Goldman Sachs Asset Management Foundation	950	*	0
Gruber & McBaine International	6,500	*	0
Harvest Opportunity Partners II, L.P. (2)	41,200	2.5%	0
Harvest Opportunity Partners Offshore Fund, Ltd. (2)	2,300	*	0
HG Holdings Ltd.	62,447	3.8	0
HG Holdings II Ltd.	10,901	*	0
Hunter Global Investors Fund I L.P.	43,152	2.6	0
Hunter Asset Management, LP	6,700	*	0
J. Andrews Harris V Family Trust	2,000	*	0
James E. Thayer, Jr.	2,000	*	0
Jon Christopher Baker	20,000	1.2%	0
Jon. D. Gruber & Linda W. Gruber	6,666	*	0
Joseph Jolson & Kathleen Jolson	60,000	3.7%	0
KBW Asset Management	12,200	*	0
Kenneth C. Haupt	666	*	0
Kenneth R. Fitzsimmons & Jane Z Fitzsimmons	5,333	*	0
Kensington Realty Income Fund LP	10,170	*	0
Kensington Strategic Realty Fund	73,640	4.5%	0
Kevin Richard McClelland	200	*	0
Kayne Anderson Income Partners, L.P.	2,000	*	0
Kayne Anderson REIT Fund, LP	18,666	1.1%	0
Lagunitas Partners LP	20,200	1.2%	0
Lewis S. Meltzer	3,333	*	0
Lion Gate Capital	3,000	*	0
Logos Partners, L.P.	6,000	*	0
Lois K. Jolson	1,000	*	0
Longview Partners B, L.P	7,934	*	0
Louis Scowcroft Peery Charitable Foundation	400	*	0
Miami University Endowment	575	*	0
Miami University Foundation	575	*	0
Michael Ashner & Susan Ashner	6,683	*	0
Michael T. O'Brien	2,000	*	0
Neese Family Equity Investments Ltd.	550	*	0
Northern Arizona University Foundation, Inc.	225	*	0

Selling Securityholder	Number of Units Beneficially Owned and Offered [1]	Percentage of Class Beneficially Owned Before Resale	Number of Units Beneficially Owned after Resale
Perry Partners, L.P.	130,000	7.9%	0
Peter T. Paul Living Trust	13,333	*	0
Precept Capitol Master Fund, GP	3,000	*	0
Prism Partners I, L.P.	12,500	*	0
Prism Partners II Offshore Fund	12,500	*	0
Richard A. Jolson, MD	5,500	*	0
Richard J. Johnson	2,500	*	0
Richard Reichler	400	*	0
Rock-Tenn Company	1,425	*	0
Saw Island Partners	3,600	*	0
Seneca Capital Management LLC	38,400	2.3%	0
Sharon Meltzer	1,000	*	0
SVS Taube Family Foundation	125	*	0
Taube Family Trust	125	*	0
The Pickard Family Trust	2,600	*	0
The Tatrall School Endowment	125	*	0
Thomas Joseph Palmieri	1,333	*	0
Tinicum Partners, L.P.	2,700	*	0
United Capital Management, Inc.	3,500	*	0
Varedus Partners L.P.	10,000	*	0
Wasatch Funds, Inc. for Wasatch Small Cap Value Fund	75,025	4.6%	0
Watershed Capital Institutional Partners, L.P.	102,600	6.3%	0
Watershed Capital Partners, L.P.	27,400	1.7%	0
Wendy S. Bolton	1,435	*	0
William Lippe	4,666	*	0
Willow Creek Capital Partners	12,000	*	0
Willow Creek Offshore Fund	24,000	1.5%	0
WRS Advisors III, LLC	6,650	*	0
			0
Holders of Units (Affiliated with the Company)			0
Allen Josephs (3)	25,999	1.6%	0
Anita Kaufman Family Partnership LP (4)	667	*	0
Daniel M. Palmier (5) (6)	13,350	*	0
Erica Josephs (7)	2,000	*	0
Fred Weber (5)(8) and Chaya Weber	1,000	*	0
Frederick C. Herbst (5)(9)	4,000	*	0
Guy Robert Milone, Jr. (5)(10)	100	*	0
John Natalone (10)	200	*	0
Joseph Martello (5)(11)	1,000	*	0
Karen A. Till (18)	100	*	0

Selling Securityholder	Number of Units Beneficially Owned and Offered [1]	Percentage of Class Beneficially Owned Before Resale	Number of Units Beneficially Owned after Resale
Lisa Kaufman (12)	400	*	0
Marie A. Esposito (10)	200	*	0
Paul F. Morehouse Jr. (10)	666	*	0
Terence F. Baydala (10)	67	*	0
Walter K. Horn (11)(13)	1,400	*	0
William B. Helmreich (5)(11)	4,000	*	0
Total Number of Units Offered:	**1,602,833**	**97.7%**	**--**

* Represents less than 1%

(1) The units consist of five shares of common stock and one warrant to purchase an additional share of common stock. The warrants comprising the units do not become exerciseable, detachable and freely tradeable until after the shares of the common stock comprising the units are registered under the Securities Act and either listed on a national securities exchange or The Nasdaq Stock Market, Inc. The shares of common stock and the warrants comprising the units may not be traded separately until such listing. See “Description of Stock—Warrants.” Upon the effectiveness of this registration statement and upon the listing of shares of the common stock comprising the units on a national securities exchange or The Nasdaq Stock Market, Inc., selling securityholders will be able to trade 8,014,165 shares of common stock comprising the units and 1,602,833 warrants comprising the units.

(2) Harvest Opportunity Partners Offshore Fund, Ltd. and Harvest Opportunity Partners II, L.P. are funds managed by JMP Asset Management LLC, an affiliate of JMP, the initial purchase in the original offering.

(3) Mr. Josephs is the father-in-law of Ivan Kaufman, our chairman of the board, chief executive officer and president.

(4) Anita Kaufman Family Partnership LP is a limited partnership controlled by Ms. Kaufman, the mother of Ivan Kaufman, our chairman of the board, chief executive officer and president.

(5) The securityholder has agreed with us, pursuant to a lock-up agreement, not to offer, pledge, sell contract to sell, sell any option or contract to purchase or otherwise transfer or dispose of, directly or indirectly, any shares of our common stock, or any securities convertible into or exercisable for any of our common stock or any right to acquire our common stock, until the earlier of 180 days from the effective date of the shelf registration statement and two years from the consummation of the original offering on July 1, 2003, subject to certain exceptions.

(6) Mr. Palmier is our Executive Vice President—Asset Management.

(7) Ms. Josephs is the mother-in-law of Ivan Kaufman, our chairman of the board, chief executive officer and president.

(8) Mr. Weber is our Executive Vice President—Structured Finance.

(9) Mr. Herbst is our Chief Financial Officer and Treasurer.

(10) These individuals are non-executive employees of Arbor Commercial Management, LLC, our manager.

(11) Messrs. Horn, Martello and Dr. Helmreich are members of our board of directors.

(12) Ms. Kaufman is the wife of Ivan Kaufman, our chairman of the board, chief executive officer and president.

(13) Mr. Horn is our General Counsel and Secretary.

Selling Securityholder	Natural Person or Persons with Voting or Dispositive Power
Alan L. Stein and Ruth S. Stein	Alan L. Stein
Allen Josephs	*
Anita Kaufman Family Partnership LP	Anita Kaufman
Anthony Avila & Jacquelyn Avila	*
Archon Partners LP	Paul Gray David McGanney Joel Beam
Ascend Offshore Fund, LTD	Malcolm Fairbairn
Ascend Partners LP	Malcolm Fairbairn
Ascend Partners Sapient LP	Malcolm Fairbairn
Barbara Meltzer	*
Bay Pond Partners, L.P.	*
Boston Partners Asset Management, L.P.	*
Boston Provident Partners, L.P.	Orin S. Kramer
BP Institutional Partners, L.P.	Orin S. Kramer
BP Real Estate Investments, Inc.	*
Bricoleur Capital Management, LLC	*
Central States Southeast & Southwest Areas Pension	*
Condor Partners LP	Paul Gray David McGanney Joel Beam
Craig R. Johnson & Nichola Jo Johnson	Craig Johnson
Cumber International	Bruce G. Wilcox
Cumberland Benchmarked Partners, L.P.	Bruce G. Wilcox
Cumberland Partners	Bruce G. Wilcox
Cuong Q. Dinh	*
Daniel M. Palmier	*
David R. Wilmerding, III	*
Eric Lippe	*
Erica Josephs	*
Farallon Capital Institutional Partners, L.P.	Farallon Partners
Farallon Capital Institutional Partners II, L.P.	Farallon Partners
Farallon Capital Institutional Partners III, L.P.	Farallon Partners
Farallon Capital Partners, L.P.	Farallon Partners
Farbitrage Partners	Richard Kayne
Financial Stocks Capital Partners II L.P.	Steven N. Stein John M. Stein
First Financial Fund, Inc.	*
Franklin Microcap Value Fund	Bruce Baughman
Fredericks Investments, LP	Dick Fredericks
Fred Weber and Chaya Weber	*
Frederick C. Herbst	*
Gary M. Meltzer	*
Gerald L. Tuttle, Jr.	*
Goldman Sachs Asset Management Foundation	*

Selling Securityholder	Natural Person or Persons with Voting or Dispositive Power
Gruber & McBaine International	Jon D. Gruber J. Patterson McBaine
Guy Robert Milone, Jr.	*
Harvest Opportunity Partners Offshore Fund, Ltd.	Joseph Jolson
Harvest Opportunity Partners II, L.P.	JMP Asset Management
HG Holdings Ltd.	Duke Buchan III
HG Holdings II Ltd.	Duke Buchan III
Hunter Asset Management, LP	*
Hunter Global Investors Fund I L.P.	Duke Buchan III
J. Andrews Harris V Family Trust	Robert McLean Murray Bodine
James E. Thayer, Jr.	*
John Natalone	*
Jon Christopher Baker	*
Jon. D. Gruber & Linda W. Gruber	*
Joseph Jolson & Kathleen Jolson	Joseph Jolson
Joseph Martello	*
Karen A. Till	*
KBW Asset Management	Michael T. O'Brien
Kenneth C. Haupt	*
Kenneth R. Fitzsimmons & Jane Z. Fitzsimmons	*
Kensington Realty Income Fund LP	Paul Gray David McGanney Joel Beam
Kensington Strategic Realty Fund	Paul Gray David McGanney Joel Beam
Kevin Richard McClelland	*
Kayne Anderson Income Partners, L.P.	Richard Kayne
Kayne Anderson REIT Fund, LP	Richard Kayne
Lagunitas Partners LP	Jon D. Gruber J. Patterson McBaine
Lewis S. Meltzer	*
Lion Gate Capital	*
Lisa Kaufman	*
Lois K. Jolson	*
Logos Partners, L.P.	Clark M. Lehman
Longview Partners B, L.P	Bruce G. Wilcox
Louis Scowcroft Peery Charitable Foundation	*
Marie A. Esposito	*
Miami University Endowment	*
Miami University Foundation	*
Michael Ashner & Susan Ashner	*
Michael T. O'Brien	*

Selling Securityholder	Natural Person or Persons with Voting or Dispositive Power
Neese Family Equity Investments Ltd.	*
Northern Arizona University Foundation, Inc.	*
Paul F. Morehouse Jr.	*
Perry Partners, L.P.	Richard Perry
Peter T. Paul Living Trust	Peter T. Paul
Precept Capitol Master Fund, GP	D. Blair Baker
Prism Partners I, L.P.	*
Prism Partners II Offshore Fund	*
Richard A. Jolson, MD	*
Richard J. Johnson	*
Richard Reichler	*
Rock-Tenn Company	*
Saw Island Partners	R. Bruce Mosbacher
Seneca Capital Management LLC	*
Sharon Meltzer	*
SVS Taube Family Foundation	*
Taube Family Trust	*
Terence F. Baydala	*
The Pickard Family Trust	W. Jeffers Pickard
The Tatrall School Endowment	*
Thomas Joseph Palmieri	*
Tinicum Partners, L.P.	Farallon Partners
United Capital Management, Inc.	*
Varedus Partners L.P.	Veredus Asset Management
Walter K. Horn	*
Wasatch Funds, Inc. for Wasatch Small Cap Value Fund	*
Watershed Capital Institutional Partners, L.P.	*
Watershed Capital Partners, L.P.	*
Wendy S. Bolton	*
William B. Helmreich	*
William Lippe	*
Willow Creek Capital Partners	*
Willow Creek Offshore Fund	*
WRS Advisors III, LLC	Bill Mack

* The securityholder has informed us that there is no natural person with voting or investment power over the respective units.

Except as indicated above, none of the selling stockholders has, or within the past three years has had, any position, office or other material relationship with us or any of our predecessors or affiliates. Because the selling stockholders may, pursuant to this prospectus, offer all or some portion of the offered securities, no estimate can be given as to the amount of the securities that will be held by the selling stockholders upon termination of any such sales. In addition, the selling stockholders identified above may have sold, transferred or otherwise disposed of all or a portion of their securities since the date on which they provided the

information regarding their securities, in transactions exempt from the registration requirements of the Securities Act.

In connection with the original offering, ACM, members of our senior management and board of directors and certain members of the senior management of ACM agreed not to offer, pledge, sell contract to sell, sell any option or contract to purchase or otherwise transfer or dispose of, directly or indirectly, any shares of our common stock, or any securities convertible into or exercisable for any of our common stock or any right to acquire our common stock, without the consent of JMP until the earlier of 180 days after the date of effectiveness of the registration statement of which this prospectus is a part or two years from the consummation of original offering, subject to certain exceptions. JMP may, at any time, release all or a portion of the securities subject to the foregoing lock-up provisions.

PLAN OF DISTRIBUTION

We are registering the securities covered by this prospectus pursuant to our agreement to register the offered securities in accordance with the terms of a registration rights agreement that we entered into with the initial purchaser for the benefit of the selling stockholders in connection with the original offering. The registration of the offered securities, however, does not necessarily mean that any of the securities will be offered or sold by the selling stockholders or their respective donees, pledgees or other transferees or successors in interest under this prospectus.

The sale of the securities by any selling stockholder, including any donee, pledgee or other transferee who receives securities from a selling stockholder, may be effected from time to time by selling them directly to purchasers or to or through broker-dealers. In connection with any such sale, any such broker-dealer may act as agent for the selling stockholder or may purchase from the selling stockholder all or a portion of the securities as principal, and sales may be made pursuant to any of the methods described below. These sales may be made on any securities exchange on which our common shares are then traded, in the over-the-counter market, in negotiated transactions or otherwise at prices and at terms then prevailing or at prices related to the then current market prices or at prices otherwise negotiated.

The securities may also be sold in one or more of the following transactions:

- block transactions (which may involve crosses) in which a broker-dealer may sell all or a portion of such securities as agent but may position and resell all or a portion of the block as principal to facilitate the transaction;
- purchases by any such broker-dealer as principal and resale by such broker-dealer for its own account pursuant to a prospectus supplement;
- a special offering, an exchange distribution or a secondary distribution in accordance with applicable rules promulgated by the National Association of Securities Dealers, or stock exchange rules;
- ordinary brokerage transactions and transactions in which any such broker-dealer solicits purchasers;
- sales “at the market” to or through a market maker or into an existing trading market, on an exchange or otherwise, for such securities; and
- sales in other ways not involving market markers or established trading markets, including direct sales to purchasers. In effecting sales, broker-dealers engaged by a selling stockholder may arrange for other broker-dealers to participate.

Broker-dealers will receive commissions or other compensation from the selling stockholder in the form of commissions, discounts or concessions. Broker-dealers may also receive compensation from purchasers of the securities for whom they act as agents or to whom they sell as principals or both. Compensation as to a particular broker-dealer may be in excess of customary commissions and will be in amounts to be negotiated.

The distribution of the securities also may be effected from time to time in one or more underwritten transactions at a fixed price or prices which may be changed, or at market prices prevailing at the time of sale, at prices related to such prevailing market prices or at negotiated prices. Any such underwritten offering may be on a “best efforts” or a “firm commitment” basis. In connection with any underwritten offering, underwriters or agents may receive compensation in the form of discounts, concessions or commissions from the selling stockholders or from purchasers of the securities. Underwriters may sell the securities to or through dealers, and such dealers may receive compensation in the form of discounts, concessions or commissions from the underwriters and/or commissions from the purchasers for whom they may act as agents.

The selling stockholders have advised us that they have not entered into any agreements, understandings or arrangements with any underwriters or broker-dealers regarding the sale of their securities, nor is there any underwriter or coordinating broker-dealer acting in connection with the proposed sale of securities by the selling stockholders. Each of the selling stockholders that is an affiliate of a broker-dealer has advised us that (i) each of them, respectively, purchased the securities to be offered by them pursuant to this prospectus in the ordinary course of its or his, as the case may be, business and (ii) that, at the time of the purchase of those securities, they did not have any agreement or understanding, directly or indirectly, with any person, or any intent, to distribute the securities. We will file a supplement to this prospectus, if required, under Rule 424(b) under the Securities Act upon

being notified by the selling stockholders that any material arrangement has been entered into with a broker-dealer for the sale of securities through a block trade, special offering, exchange distribution or secondary distribution or a purchase by a broker or dealer. This supplement will disclose, among other information:

- the name of the selling stockholders and of participating brokers and dealer(s);
- the number of securities involved;
- the price at which the securities are to be sold;
- the commissions paid or the discounts or concessions allowed to the broker-dealer(s), where applicable;
- that the broker-dealer(s) did not conduct any investigation to verify the information set out or incorporated by reference in this prospectus; and
- other facts material to the transaction.

The selling stockholders and any underwriters, or brokers-dealers or agents that participate in the distribution of the securities may be deemed to be “underwriters” within the meaning of the Securities Act, and any profit on the sale of the securities by them and any discounts, commissions or concessions received by any such underwriters, dealers or agents may be deemed to be underwriting discounts and commissions under the Securities Act. Because the selling stockholders may be deemed to be “underwriters” under the Securities Act, the selling stockholders will be subject to the prospectus delivery requirements of the Securities Act. We have informed the selling stockholders that the anti-manipulative provisions of Regulation M promulgated under the Exchange Act, may apply to their sales in the market.

From time to time, the selling stockholders may pledge their securities pursuant to the margin provisions of their customer agreements with their brokers. Upon default by a selling stockholder, the broker may offer and sell such pledged securities from time to time. Upon a sale of the securities, the selling stockholders intend to comply with the prospectus delivery requirements under the Securities Act by delivering a prospectus to each purchaser in the transaction. We intend to file any amendments or other necessary documents in compliance with the Securities Act that may be required in the event the selling stockholders default under any customer agreement with brokers.

In order to comply with the securities laws of certain states, if applicable, the securities may be sold only through registered or licensed broker-dealers. We have agreed to pay all expenses incident to the offering and sale of the securities, other than commissions, discounts and fees of underwriters, broker-dealers or agents. We have agreed to indemnify the selling stockholders against certain losses, claims, damages, actions, liabilities, costs and expenses, including liabilities under the Securities Act.

The selling stockholders have agreed to indemnify us, our officers and trustees and each person who controls (within the meaning of the Securities Act) or is controlled by us, against any losses, claims, damages, liabilities and expenses arising under the securities laws in connection with this offering with respect to written information furnished to us by the selling stockholders.

LEGAL MATTERS

Certain legal matters will be passed upon for us by Skadden, Arps, Slate, Meagher & Flom LLP, New York, New York and Venable LLP, Baltimore, Maryland.

EXPERTS

The consolidated financial statements of the Structured Finance Business of Arbor Commercial Mortgage, LLC and Subsidiaries as of December 31, 2002 and 2001, and for each of the three years in the period ended December 31, 2002 and the financial statements of Mezzobridge Funding LLC as of and for the year ended December 31, 2000, each appearing in this prospectus and registration statement have been audited by Grant Thornton LLP, independent auditors, as set forth in their report thereon appearing elsewhere herein, and are included in reliance upon such reports given on the authority of such firm as experts in accounting and auditing.

WHERE YOU CAN FIND MORE INFORMATION

We have filed a registration statement, of which this prospectus is a part, on Form S-11 with the Securities and Exchange Commission (the "Commission") relating to this offering. This prospectus does not contain all of the information in the registration statement and the exhibits and consolidated financial statements included with the registration statement. References in this prospectus to any of our contracts, agreements or other documents are not necessarily complete, and you should refer to the exhibits attached to the registration statement for copies of the actual contracts, agreements or documents. You may read and copy the registration statement, the related exhibits and other material we file with the Commission at the Commission's public reference room in Washington, D.C. at Room 1024, Judiciary Plaza, 450 Fifth Street, N.W., Washington, D.C. 20549. You can also request copies of those documents, upon payment of a duplicating fee, by writing to the Commission. Please call the Commission at 1-800-SEC-0330 for further information on the operation of the public reference rooms. The Commission also maintains an internet site that contains reports, proxy and information statements and other information regarding issuers that file with the Commission. The website address is http://www.sec.gov. You may also request a copy of these filings, at no cost, by writing or telephoning us as follows: Arbor Realty Trust, Inc. at 333 Earle Ovington Boulevard, Suite 900, Uniondale, New York 11553, Attention: Frederick C. Herbst.

Upon the effectiveness of the registration statement, we will be subject to the informational requirements of the Securities Exchange Act of 1934, as amended (the "Exchange Act"), and, in accordance with the Exchange Act, will file reports, proxy and information statements and other information with the Commission. Such annual, quarterly and special reports, proxy and information statements and other information can be inspected and copied at the locations set forth above. We will report our consolidated financial statements on a year ended December 31. We intend to furnish our stockholders with annual reports containing consolidated financial statements audited by our independent certified public accountants and with quarterly reports containing unaudited consolidated financial statements for each of the first three quarters of each fiscal year.

INDEX TO THE UNAUDITED CONSOLIDATED FINANCIAL STATEMENTS OF ARBOR REALTY TRUST, INC. AND SUBSIDIARIES

All other schedules are omitted because they are not applicable or the required information is shown in the consolidated financial statements or notes thereto

Arbor Realty Trust, Inc. and Subsidiaries

Consolidated Balance Sheet

	September 30, 2003
	(unaudited)
Assets:	
Cash	$ 10,393,612
Loans and investments, net	214,237,458
Related party loans, net	26,000,000
Investment in equity affiliates	817,542
Other assets	3,940,961
Total assets	$255,389,573
Liabilities and stockholders equity:	
Notes payable and repurchase agreements	$ 91,913,811
Other liabilities	5,917,600
Total liabilities	97,831,411
Minority interest	44,309,289
Commitments and contingencies	—
Stockholders' equity:	
Preferred stock, $0.01 par value: 100,000,000 shares authorized; 3,146,724 shares issued and outstanding	31,467
Common stock, $0.01 par value: 500,000,000 shares authorized; 8,197,567 shares issued and outstanding	81,976
Additional paid – in capital	112,685,669
Retained earnings	1,074,587
Deferred compensation	(624,826)
Total stockholders' equity	113,248,873
Total liabilities and stockholders equity	$255,389,573

See notes to consolidated financial statements.

Arbor Realty Trust, Inc. and Subsidiaries

Consolidated Statements of Operations

	Three Months Ended September 30, 2003
	(unaudited)
Revenue:	
Interest income	$ 4,664,115
Other income	6,375
Total revenue	4,670,490
Expenses:	
Interest expense	721,854
Employee compensation and benefits	446,845
Stock based compensation	1,587,674
Selling and administrative	133,304
Management fee	293,734
Total expenses	3,183,411
Income before minority interest	1,487,079
Income allocated to minority interest	412,492
Net income	$ 1,074,587
Basic earnings per common share	$ .13
Diluted earnings per common share	$ .13

See notes to consolidated financial statements.

Arbor Realty Trust, Inc. and Subsidiaries

Consolidated Statement of Stockholders' Equity

For the Three Months Ended September 30, 2003
(unaudited)

	Preferred Stock Shares	Preferred Stock Par Value	Common Stock Shares	Common Stock Par Value	Additional Paid – in Capital	Deferred Compensation	Retained Earnings	Total
Balance—July 1, 2003	—	$ —	67	$ 1	$ 1,004	$ —	$ —	$ 1,005
Issuance of preferred stock	3,146,724	31,467						31,467
Issuance of common stock			8,197,500	81,975	110,472,165			110,554,140
Deferred compensation					2,212,500	(2,212,500)		—
Stock based compensation						1,587,674		1,587,674
Net income							1,074,587	1,074,587
Balance—September 30, 2003	3,146,724	$31,467	8,197,567	$81,976	$112,685,669	$ (624,826)	$1,074,587	$113,248,873

See notes to consolidated financial statements.

Arbor Realty Trust, Inc. and Subsidiaries

Consolidated Statement of Cash Flows

	Three Months Ended September 30, 2003
	(unaudited)
Operating activities:	
Net income	$ 1,074,587
Adjustments to reconcile net income to cash provided by operating activities	
Stock based compensation	1,587,674
Minority interest	412,492
Changes in operating assets and liabilities:	
Other assets	(3,940,961)
Other liabilities	5,917,600
Net cash provided by operating activities	5,051,392
Investing activities:	
Loans and investments originated, net	(38,387,740)
Payoffs and paydowns of loans and investments	11,226,923
Investments in equity affiliates	(817,542)
Net cash used in investing activities	(27,978,359)
Financing activities:	
Proceeds from notes payable and repurchase agreements	—
Payoffs and paydowns of notes payable and repurchase agreements	(77,266,033)
Issuance of preferred stock	31,467
Issuance of common stock	110,555,145
Net cash provided by financing activities	33,320,579
Net increase in cash	10,393,612
Cash at beginning of period	—
Cash at end of period	$ 10,393,612
Non cash investing and financing items:	
Loans and investments, net contributed	$213,076,639
Notes payable and repurchase agreements contributed	$169,179,843
Supplemental cash flow information:	
Cash used to pay interest	$ 483,370

See notes to consolidated financial statements.

Arbor Realty Trust, Inc. and Subsidiaries

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

For the Three Months Ended September 30, 2003
(unaudited)

NOTE 1 -DESCRIPTION OF BUSINESS AND BASIS OF PRESENTATION

Arbor Realty Trust, Inc. (the "Company") is a Maryland corporation that was formed in June 2003 to invest in real estate related bridge and mezzanine loans, preferred equity and, in limited cases, discounted mortgage notes and other real estate related assets. The Company conducts substantially all of its operations through the operating partnership, Arbor Realty Limited Partnership ("ARLP").

On July 1, 2003 Arbor Commercial Mortgage, LLC ("ACM") contributed $213.1 million of structured finance assets and $169.2 million of borrowings supported by $43.9 million of equity in exchange for a commensurate equity ownership in ARLP. In addition, certain employees of ACM were transferred to ARLP. These assets, liabilities and employees represent a substantial portion of ACM's structured finance business (the "SF Business"). The Company is externally managed and advised by ACM and pays ACM a management fee in accordance with a management agreement. ACM also sources originations, provides underwriting services and services all structured finance assets on behalf of ARLP.

On July 1, 2003 the Company completed a private equity offering of units, each consisting of five shares of common stock and one warrant to purchase one share of common stock. Gross proceeds from the private financing totaled $120.2 million. Gross proceeds from the private financing combined with the concurrent equity contribution by ACM totaled approximately $164.1 million in equity capital. The Company paid offering expenses of $9.6 million resulting in stockholders' equity and minority interest of $154.5 million at inception.

NOTE 2 - SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

Use of Estimates

The preparation of consolidated financial statements in conformity with accounting principals generally accepted in the United States of America requires management to make estimates and assumptions in determining the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the consolidated financial statements and the reported amounts of revenue and expenses during the reporting period. Actual results could differ from those estimates.

Loans and Investments

Loans held for investment are intended to be held to maturity and, accordingly, are carried at cost, net of unamortized loan origination costs and fees, unless such loan or investment is deemed to be impaired.

The Company invests in preferred equity interests that, in some cases, allow the Company to participate in a percentage of the underlying property's cash flows from operations and proceeds from a sale or refinancing. At the inception of each such investment, management must determine whether such investment should be accounted for as a loan, joint venture or as real estate. To date, management has determined that all such investments are properly accounted for and reported as loans.

Specific valuation allowances are established for impaired loans based on the fair value of collateral on an individual loan basis. The fair value of the collateral is determined by an evaluation of operating cash flow from the property during the projected holding period, and estimated sales value computed by applying an expected capitalization rate to the stabilized net operating income of the specific property, less selling costs, discounted at market discount rates.

Arbor Realty Trust, Inc. and Subsidiaries

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

For the Three Months Ended September 30, 2003
(unaudited)

NOTE 2 - SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (continued)

If upon completion of the valuation, the fair value of the underlying collateral securing the impaired loan is less than the net carrying value of the loan, an allowance is created with a corresponding charge to the provision for loan losses. The allowance for each loan is maintained at a level believed adequate by management to absorb probable losses.

Revenue Recognition

Interest Income – Interest income is recognized on the accrual basis as it is earned. In most instances, the borrower pays an additional amount of interest at the time the loan is closed, an origination fee, and deferred interest upon maturity. This additional income, as well as any direct loan origination costs incurred, is deferred and recognized over the life of the related loan as a yield adjustment. Income recognition is suspended for loans when in the opinion of management a full recovery of income and principal becomes doubtful. Income recognition is resumed when the loan becomes contractually current and performance is demonstrated to be resumed Several of the loans provide for accrual of interest at specified rates, which differ from current payment terms. Interest is recognized on such loans at the accrual rate subject to management's determination that accrued interest and outstanding principal are ultimately collectible, based on the underlying collateral and operations of the borrower. If management cannot make this determination regarding collectibility, interest income is recognized only upon actual receipt.

Gain on sale of loans and real estate– For the sale of loans and real estate, revenue recognition occurs when all the incidence of ownership passes to the buyer. In some circumstances, the Company may retain an interest in the property. When this occurs, the investment in real estate retained is recorded at its allocated cost and revenue is recognized on the percentage of the property sold.

Income from equity affiliates – The Company may invest in joint ventures that are formed to acquire, develop and/or sell real estate assets. Such investments are recorded under the equity method. The Company records its share of the net income from the underlying properties. The gain or loss on disposition of a joint venture interest is recorded as gain on sale of loans and real estate.

Income Taxes

The Company intends to elect to be taxed as a REIT and to comply with the provisions of the Internal Revenue Code with respect thereto. A REIT is generally not subject to federal income tax on that portion of its REIT taxable income ("Taxable Income") which is distributed to its shareholders provided that at least 90% of Taxable Income is distributed and provided that certain other requirements are met. The Company intends to distribute an amount at least equal to its Taxable Income, and accordingly, there is no provision for federal income taxes. The Company may be subject to state or local income taxes in certain jurisdictions, and to certain other taxes, such as property, transfer, recording, sales, payroll and excise taxes that are not based on income.

Arbor Realty Trust, Inc. and Subsidiaries

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

For the Three Months Ended September 30, 2003
(unaudited)

NOTE 2 - SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (continued)

Earnings Per Share

In accordance with the Statement of Financial Accounting standards No. 128 ("SFAS No. 128"), the Company presents both basic and diluted earnings per share. Basic earnings per share excludes dilution and is computed by dividing net income available to common shareholders by the weighted average number of shares outstanding for the period. Diluted earnings per share reflects the potential dilution that could occur if securities or other contracts to issue common stock were exercised or converted into common stock, where such exercise or conversion would result in a lower earnings per share amount. In the private offering on July 1, 2003, the Company issued 1,610,000 units, each of which consists of five share of common stock and a warrant to purchase an additional share of common stock, at $75.00 per unit. The warrants to acquire 1,610,000 shares of common stock have an exercise price of $15.00 per share and expire on July 1, 2005. This exercise price is equal to the price per share of common stock in the private offering and approximates the market value of the common stock at September 30, 2003. Therefore, the assumed exercise of the warrants were not considered to be dilutive for purposes of calculating diluted earnings per share.

Recently Issued Accounting Pronouncements

In January 2003, the FASB issued FASB Interpretation No. 46, "Consolidation of Variable Interest Entities" ("FIN 46"). FIN 46 provides guidance on identifying entities for which control is achieved through means other than through voting rights (a "variable interest entities" or "VIE"), and how to determine when and which business enterprise should consolidate a VIE. In addition, FIN 46 requires that both the primary beneficiary and all other enterprises with a significant variable interest in VIE make additional disclosures. The transitional disclosure requirements are effective for the interim or the annual period ending after December 31, 2003. Management is in the process of evaluating all of its mezzanine loans and preferred equity investments, which may be deemed variable interest entities under the provision of FIN 46. A definitive conclusion can not be reached until the evaluation has been completed.

NOTE 3 - LOANS AND INVESTMENTS

	September 30, 2003
Bridge loans	$135,136,947
Mezzanine loans	56,766,060
Preferred equity investments	21,225,432
Other	1,977,245
	215,105,684
Unearned revenue	(868,226)
Loans and investments, net	$214,237,458

Concentration of Borrower Risk

The Company is subject to concentration risk in that, as of September 30, 2003, the unpaid principal balance relating to nine loans represented approximately 37% of total loans held for investment and are with three unrelated borrowers. The Company had 30 loans and investments as of September 30, 2003.

Arbor Realty Trust, Inc. and Subsidiaries

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

For the Three Months Ended September 30, 2003
(unaudited)

NOTE 4 - INVESTMENT IN EQUITY AFFILIATES

In June 2003, ACM invested approximately $818,000 in exchange for a 12.5% non-controlling interest in a joint venture, which was formed to acquire, develop and/or sell real estate assets. This investment was purchased by the Company from ACM in August 2003. The Company accounts for this investment under the equity method. In addition, as of September 30, 2003, the Company had two mezzanine loans, secured by a second lien position in the ownership interests of the borrower and the property, to this joint venture totaling $6.0 million outstanding. The loans require monthly interest payments based on LIBOR and mature in May 2006. Interest income recorded from these loans was approximately $97,000 for the period ended September 30, 2003.

NOTE 5 - NOTES PAYABLE AND REPURCHASE AGREEMENTS

The Company utilizes warehouse lines of credit and repurchase agreements to finance its loans and investments. Borrowings underlying these arrangements are secured by substantially all the Company's loans and investments.

	September 30, 2003
Structured transaction facility, financial institution, $250 million committed line, expiration June 2006, interest rate variable based on LIBOR; the weighted average note rate was 3.38%.	$28,446,301
Repurchase agreement, financial institution, $100 million committed line, expiration November 2003 interest is variable based on LIBOR; the weighted average note rate was 3.30%.	63,467,510
Repurchase agreement, financial institution, $50 million committed line, expiration November 2005, interest rate variable based on LIBOR.	—
Notes payable and repurchase agreements	$91,913,811

The $250 million structured transaction facility contains profit-sharing arrangements between the Company and the lender which provide for profit sharing percentages ranging from 20% to 45% of net interest income of the loans and investments financed. This cost is included in interest expense.

Each of the credit facilities contains various financial covenants and restrictions, including minimum net worth and debt-to-equity ratios. The Company is in compliance with all covenants and restrictions for the period presented.

NOTE 6 – MINORITY INTEREST

On July 1, 2003 ACM contributed $213.1 million of structured finance assets and $169.2 million of borrowings supported by $43.9 million of equity in exchange for a commensurate equity ownership in ARLP, the Company's operating partnership. This transaction was accounted for as minority interest and entitles ACM to a 28% profits interest in the Company which is recorded under the equity method.

Arbor Realty Trust, Inc. and Subsidiaries

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

For the Three Months Ended September 30, 2003
(unaudited)

NOTE 7 – COMMITMENTS AND CONTINGENCIES

Litigation

In the normal course of business, the Company is subject to various legal proceedings and claims, the resolution of which, in management's opinion, will not have a material adverse effect on the financial position or the results of operations of the Company.

NOTE 8 – SHAREHOLDERS' EQUITY

Common Stock

The Company's charter provides for the issuance of up to 500 million shares of common stock, par value $.01 per share, and 100 million shares of preferred stock, par value $.01 per share.

The Company was incorporated in June 2003 and was initially capitalized through the sale of 67 shares of common stock for $1,005.

On July 1, 2003 the Company completed a private offering for the sale of 1,610,000 units (including an over-allotment option), each consisting of five shares of the Company's common stock and one warrant to purchase one share of common stock, at $75 per unit, for proceeds of approximately $110.6 million, net of expenses. 8,050,000 shares of common stock were sold in the offering. In addition, the Company issued 147,500 shares of stock under the stock incentive plan as described below under "Deferred Compensation."

Deferred Compensation

The Company has a stock incentive plan, under which the board of directors has the authority to issue shares of stock to certain directors, officers and employees of the Company and ACM. Under the stock incentive plan, 185,000 shares of common stock were reserved for issuance pursuant to restricted stock awards, and 147,500 restricted stock awards were made upon consummation of the private offering of units on July 1, 2003. Of the shares awarded, two-thirds vested immediately and the remaining one-third will vest ratable over three years on the anniversary date of the initial award. Dividends will be paid on the restricted shares as dividends are paid on shares of the Company's common stock whether or not they are vested. For accounting purposes, the Company measures the compensation costs for these shares as of the date of the grant and expenses such amounts against earnings, either at the grant date (for the portion that vest immediately) or ratably over the respective vesting periods. Such amounts appear on the Company's Consolidated Statement of Operations under "stock-based compensation expense."

Warrants

In connection with the private offering of units by the Company on July 1, 2003, the Company issued warrants to acquire 1,610,000 shares of common stock, as adjusted for dilution, at $15 per share. These warrants expire on July 1, 2005.

Arbor Realty Trust, Inc. and Subsidiaries

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

For the Three Months Ended September 30, 2003
(unaudited)

NOTE 8 – SHAREHOLDERS' EQUITY (continued)

Preferred Stock

Concurrent with the formation of the Company, ACM contributed a portfolio of structured finance investments and related debt to ARLP, the operating partnership of the Company, in exchange for 3,146,724 units of limited partnership interest in ARLP and warrants to purchase an additional 629,345 operating partnership units. Concurrently, the Company, ARLP and ACM entered into a pairing agreement. Pursuant to the pairing agreement, each operating partnership unit issued to ACM and issuable to ACM upon exercise of its warrants for additional operating partnership units in connection with the contribution of initial assets was paired with one share of the Company's special voting preferred stock. In addition, ACM paid the Company $31,467. Each share of special voting preferred stock entitles the holder to one vote on all matters submitted to a vote of the Company's shareholders. A holder of special voting preferred stock will not be entitled to any regular or special dividend payments or other distributions, other than a $.01 per share liquidation preference. The Company has classified and designated 5,000,000 shares of its 100,000,000 authorized shares of preferred stock as special voting preferred stock.

NOTE 9 - FAIR VALUE OF FINANCIAL INSTRUMENTS

The following table summarizes the carrying values and the estimated fair values of financial instruments as of September 30, 2003. Fair value estimates are dependent upon subjective assumptions and involve significant uncertainties resulting in variability in estimates with changes in assumptions.

	September 30, 2003	
	Carrying Value	Estimated Fair Value
Financial assets:		
Loans and investments, net	$214,237,458	$214,237,458
Related party loans, net	26,000,000	26,000,000
Financial liabilities:		
Notes payable and repurchase agreements	91,913,811	91,913,811

The following methods and assumptions were used by the Company in estimating the fair value of each class of financial instrument:

Loans and investments, net: Fair values of variable-rate loans and investments with no significant change in credit risk are based on carrying values. Fair values of other loans and investments are estimated using discounted cash flow methodology, using discount rates, which, in the opinion of management, best reflect current market interest rates that would be offered for loans with similar characteristics and credit quality.

Related party loans, net: Fair values of variable-rate loans and investments with no significant change in credit risk are based on carrying values. Fair values of other loans and investments are estimated using discounted cash flow methodology, using discount rates, which, in the opinion of management, best reflect current market interest rates that would be offered for loans with similar characteristics and credit quality.

Notes payable and repurchase agreements: Fair values approximate the carrying values reported in the balance sheets.

Arbor Realty Trust, Inc. and Subsidiaries

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

For the Three Months Ended September 30, 2003
(unaudited)

NOTE 10 - RELATED PARTY TRANSACTIONS

Related Party Loans:

	September 30, 2003
Bridge loans	$16,000,000
Mezzanine loans	10,000,000
Related party loans, net	$26,000,000

ACM has a 50% non-controlling interest in a joint venture, which was formed to acquire, develop and/or sell real estate assets. At September 30, 2003, ACM's investments in this joint venture were approximately $2.6 million. At September 30, 2003, the Company had a $16.0 million bridge loan outstanding to the joint venture, which is collateralized by a first lien position on a commercial real estate property. There is a limited guarantee on the loan of 50% by the chief executive officer of the Company and 50% by the key principal of the joint venture. The loan requires monthly interest payments based on LIBOR and matures in October 2004. The Company has agreed to provide the borrower with additional mezzanine financing in the amount of up to $8.0 million. The mezzanine financing requires interest payments based on LIBOR and matures in May 2006. The loan will be funded in two equal installments of $4.0 million. The funding will be drawn down as construction progresses. The interest on the first component, which was funded by ACM in June 2003 and was purchased by the Company in July 2003, will be earned on the full $4.0 million, while the interest on the second component, which has yet to be funded, will be earned as the $4.0 million is drawn down. This additional financing is secured by a second mortgage lien on the property. Interest income recorded from these loans was approximately $240,000, for the period ended September 30, 2003.

The Company's $16.0 million bridge loan to the joint venture was contributed by ACM as one of the structured finance assets contributed to the Company on July 1, 2003. At the time of contribution, ACM also agreed to provide a limited guarantee of the loan's principal amount based any profits realized on its retained 50% interest in the joint venture with the borrower and ACM's participating interests in borrowers under three other contributed structured finance assets.

In June 2003, ACM invested approximately $818,000 in exchange for a 12.5% non-controlling interest in a joint venture, which was formed to acquire, develop and/or sell real estate assets. This investment was purchased by the Company from ACM in August 2003. The Company accounts for this investment under the equity method. In addition, as of September 30, 2003, the Company had two mezzanine loans, secured by a second lien position in the ownership interests of the borrower and the property, to this joint venture totaling $6.0 million outstanding. The loans require monthly interest payments based on LIBOR and mature in May 2006. Interest income recorded from these loans was approximately $97,000 for the period ended September 30, 2003.

At the time of ACM's origination of three of the structured finance assets that it contributed to the Company on July 1, 2003, each of the property owners related to these contributed assets granted ACM participating interests that share in a percentage of the cash flows of the underlying properties. Upon contribution of the structured finance assets, ACM retained these participating interests and its 50% non-controlling interest in the joint venture to which it had made the $16.0 million bridge loan. ACM agreed that if any portion of the outstanding amount of any of these four contributed assets is not paid at the its maturity or repurchase date, ACM will pay to the Company, subject to the limitation described below, the portion of the unpaid amount of the contributed asset up to the total amount then received by ACM due to the realization of any profits on its retained interests associated with any other of the four contributed assets. However, ACM will no longer be obligated to make such payments to the Company when the remaining accumulated principal amount of the four contributed assets, collectively, falls below $5 million and none of the four contributed assets is in default.

Arbor Realty Trust, Inc. and Subsidiaries

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

For the Three Months Ended September 30, 2003
(unaudited)

NOTE 11 - MANAGEMENT AGREEMENT

The Company and ARLP have entered into a management agreement with ACM which has an initial term of two years with automatic one year extensions, subject to certain termination rights. After the initial two year term, the Company will be able to terminate the management agreement without cause for any reason upon six months' prior written notice to ACM. If the Company terminates the management agreement without cause, or gives ACM notice of non-renewal, in order to manage its operations internally, the Company will be required to pay ACM a termination fee equal to the base management fee and the incentive compensation earned by ACM during the 12-month period preceding the termination. If, without cause, the Company terminates the management agreement or elects not to renew it for any other reason, the Company will be required to pay ACM a termination fee equal to two times the base management fee and the incentive fee earned by ACM during the 12-month period preceding the termination.

The Company's chief executive officer is also ACM's chief executive officer and controlling equity owner. ACM has agreed to provide the Company with structured finance investment opportunities and loan servicing as well as other services necessary to operate its business. The Company's chief executive officer, chief financial officer and general counsel and secretary are not employees of the Company. The Company relies to a significant extent on the facilities and resources of ACM to conduct its operations. The management agreement requires ACM to manage the business affairs in conformity with the policies and the general investment guidelines that are approved and monitored by the Company's board of directors. ACM's management of the Company is under the direction or supervision of the Company's board of directors.

For performing services under the management agreement, the Company will pay ACM an annual base management fee payable monthly in cash as a percentage of ARLP's equity and equal to 0.75% per annum of the equity up to $400 million, 0.625% per annum of the equity from $400 million to $800 million and 0.5% per annum of the equity in excess of $800 million. For purposes of calculating the base management fee, equity equals the month end value computed in accordance with generally accepted accounting principles of (1) total partners' equity in ARLP, plus or minus (2) any unrealized gains, losses or other items that do not affect realized net income.

The Company will also pay ACM incentive compensation each fiscal quarter, calculated as (1) 25% of the amount by which (a) ARLP's funds from operations per unit of partnership interest in ARLP, adjusted for certain gains and losses, exceeds (b) the product of (x) 9.5% per annum or the 10 year Treasury Rate plus 3.5%, whichever is greater, and (y) the weighted average of book value of the net assets contributed by ACM to ARLP per ARLP partnership unit, the offering price per share of the Company's common equity in the private offering on July 1, 2003 and subsequent offerings and the issue price per ARLP partnership unit for subsequent contributions to ARLP, multiplied by (2) the weighted average of ARLP's outstanding partnership units. At least 25% of this incentive compensation is paid to ACM in shares of the Company's common stock, subject to ownership limitations in the Company's charter. The Company has also agreed to share with ACM a portion of the origination fees that it receives on loans it originates through ACM.

ACM is responsible for all costs incident to the performance of its duties under the management agreement, including compensation of its employees, rent for facilities and other "overhead" expenses. The Company is required to pay or reimburse ACM for all expenses incurred on behalf of the Company in connection with the raising of capital or the incurrence of debt, interest expenses, taxes and license fees, litigation and extraordinary or non recurring expenses.

Arbor Realty Trust, Inc. and Subsidiaries

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS

For the Three Months Ended September 30, 2003
(unaudited)

NOTE 12 – DIVIDENDS

In order to qualify as a REIT, the Company must currently distribute at least 90% of its taxable income and must distribute 100% of its taxable income in order not to be subject to corporate federal income taxes on retained income. The Company anticipates it will distribute all of its taxable income to its shareholders. Because taxable income differs from cash flow from operations due to non-cash revenues or expenses (such as depreciation), in certain circumstances, the Company may generate operating cash flow in excess of its dividends or, alternatively, may be required to borrow to make sufficient dividend payments.

On November 5, 2003, the Company declared a dividend of $.25 per share of common stock, payable with respect to the three months ended September 30, 2003, to stockholders of record at the close of business on November 5, 2003. The Company intends to distribute this dividend on November 18, 2003.

Arbor Realty Trust, Inc. and Subsidiaries
Schedule IV- Loans and Other Lending Investments

As of September 30, 2003
(Unaudited)

Type	Location	Periodic Payment Terms	Maturity Date	Interest Pay Rate Index	Interest Accrual Rate Index	Prior Liens	Face Amount	Carrying Amount
Senior Mortgages:								
Multi-family	New York, NY	Interest Only	5/2006	Libor + 2.25%	N/A	—	$ 16,000,000	$ 16,000,000
Co-op	New York, NY	Interest Only	10/2003	18.00%	N/A	—	1,100,000	1,100,000
Multi-family/Office	Massachusetts	Interest Only	4/2004	Libor + 5.50% Floor 7.00%	N/A	—	5,000,000	5,000,000
Hotel	New York, NY	Interest Only	3/2005	Libor + 5.00% Floor 6.50%	N/A	—	11,900,000	11,900,000
Multi-family	Winter Park, FL	Interest Only	12/2004	Libor + 3.50% Floor 5.50%	N/A	—	15,400,000	15,400,000
Multi-family	Las Vegas, NV	Principal and Interest	12/2004	Libor + 3.00% Floor 5.25%	N/A	—	25,232,102	25,232,102
Hotel	Deland, FL	Interest Only	4/2004	Libor + 6.65% Floor 12.50%	N/A	—	4,700,000	4,700,000
Multi-family	Indiana	Interest Only	3/2004	Libor + 4.25%	N/A	—	14,624,845	14,624,845
Multi-family	Ontario, CA	Interest Only	4/2005	Libor + 4.00% Floor 5.50%	N/A	—	9,130,000	9,130,000
Multi-family	Baltimore, MD	Interest Only	4/2006	Libor + 3.50% Floor 5.00%	N/A	—	14,200,000	14,200,000
Multi-family	Lauderdale Lakes, FL	Interest Only	12/2004	Libor + 3.50% Floor 5.50%				
Multi-family	Miami Lakes, FL	Interest Only	9/2004	Libor + 3.00% Floor 5.00%	N/A	—	18,850,000	18,850,000
Multi-family	San Francisco, CA	Interest Only	7/2004	Libor + 4.500% Floor 6.00%	N/A	—	18,850,000	18,850,000
Total Senior Mortgages						—	$151,136,947	$151,136,947

Table of Contents

Arbor Realty Trust, Inc. and Subsidiaries
Schedule IV- Loans and Other Lending Investments (continued)

As of September 30, 2003
(Unaudited)

Type	Location	Periodic Payment Terms	Maturity Date	Interest Pay Rate Index	Interest Accrual Rate Index	Prior Liens	Face Amount	Carrying Amount
Mezzanine Loans:								
Commercial	Brooklyn, NY	Interest Only	5/2006	Libor + 3.50% Floor 5.00%	Libor + 8.00% Floor 9.50%	$ 1,600,000	$ 2,500,000	$ 2,500,000
Condo	New York, NY	Interest Only	5/2006	Libor + 7.00% Floor 10.00%	N/A	16,000,000	4,000,000	4,000,000
Multi-family	New York, NY	Interest Only	2/2004	Libor + 3.00% Floor: 8.00%	Libor + 5.00% Floor 12.50%	31,000,000	10,000,000	10,000,000
Commercial	Brooklyn, NY	Interest Only	5/2006	Libor + 3.50% Floor 5.00%	Libor + 8.00% Floor 9.50%	7,700,000	3,500,000	3,500,000
Multi-family	Tampa, FL	Interest Only	12/2003	Libor + 6.75% Floor 12.00%	N/A	21,375,000	4,000,000	4,000,000
Multi-family	Glassboro, NJ	Interest Only	6/2006	Libor + 7.00% Floor 10.00%	N/A	11,000,000	2,000,000	2,000,000
Hotel	Arizona	Interest Only	7/2006	Libor + 7.00% Floor 9.00% Cap 10.00%	N/A	10,000,000	2,220,491	2,220,491
Multi-family	Baltimore, MD	Interest Only	5/2006	Libor + 4.50% (Year 1); Libor + 6.50% (Year 2); Libor + 7.50% (Year 3) Libor Floor 2.00%	N/A	14,244,862	4,725,569	4,725,569
Multi-family	New Jersey	Interest Only	4/2005	Libor + 5.25 Floor 6.75%%	N/A	14,016,998	3,000,000	3,000,000
Multifamily	Baltimore, MD	Interest Only	9/2005	Libor + 5.50% (Year 1); Libor + 6.50% (Year 2); Libor + 7.50% (Year 3) Libor Floor 2.00%	N/A	59,258,232	11,520,000	11,520,000
Total Mezzanine Loans						$166,957,592	$ 47,466,060	$ 47,466,060
Preferred Equity:								
Multi-family	Texas	Interest Only	1/2004	Libor + 4.50% Floor 9.56%	N/A	$ 12,776,051	$ 4,991,001	$ 4,991,001
Multi-family	Holyoke, MA	Interest Only	1/2005	Libor + 4.50% Floor: 10.00%	Libor + 7.50% Floor: 13.50%	5,442,960	2,500,000	2,500,000

Multi-family	Baltimore, MD	Interest Only	11/2006	Libor + 4.50% (Year 1); Libor + 6.50% (Year 2); Libor + 7.50% (Year 3) Libor Floor 2.00%	N/A	11,680,502	7,074,431	7,074,431
Multi-family	Santa Ana, CA	Interest Only	1/2005	Libor + 5.00% Floor 12.00%	N/A	10,647,537	3,860,000	3,860,000
Multi-family	New Jersey	Interest Only	4/2005	Libor + 5.25% Floor 6.75%	N/A	189,314,199	19,300,000	19,300,000
Multi-family	Denver, CO	Interest Only	3/2004	Libor + 6.00% Floor 10.00%	N/A	23,398,573	2,800,000	2,800,000
Total Preferred Equity						$253,249,822	$ 40,525,432	$ 40,525,432
Other Investments:								
Hotel	Miami, FL		8/2023	7.39% Fixed	N/A	$ 10,000,000	$ 1,977,245	$ 1,977,245
Total Loans and investments						$430,207,414	$ 241,105,684	$241,105,684

INDEX TO THE CONSOLIDATED FINANCIAL STATEMENTS OF THE STRUCTURED FINANCE BUSINESS OF ARBOR COMMERCIAL MORTGAGE, LLC AND SUBSIDIARIES

REPORT OF INDEPENDENT CERTIFIED PUBLIC ACCOUNTANTS

To the Members of
Arbor Commercial Mortgage, LLC

We have audited the accompanying consolidated statements of assets and liabilities of the Structured Finance Business (the "SF Business") or (the "Company") of Arbor Commercial Mortgage, LLC and Subsidiaries ("ACM") as of December 31, 2002 and 2001, and the related consolidated statements of revenue and direct operating expenses for each of the three years in the period ended December 31, 2002. These financial statements are the responsibility of ACM's management. Our responsibility is to express an opinion on these financial statements based on our audits.

We conducted our audits in accordance with auditing standards generally accepted in the United States of America. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audits provide a reasonable basis for our opinion.

The accompanying financial statements were prepared for the purpose of complying with the rules and regulations of the Securities and Exchange Commission for inclusion in the Registration Statement on Form S-11 of Arbor Realty Trust, Inc. and do not purport to be a complete presentation of the assets and liabilities or results of operations that would have resulted if the SF Business had operated as an unaffiliated independent company.

In our opinion, the financial statements referred to above present fairly, in all material respects, the assets and liabilities of the SF Business of ACM as of December 31, 2002 and 2001, and the revenue and direct operating expense for each of the three years in the period ended December 31, 2002, in conformity with accounting principles generally accepted in the United States of America.

Grant Thornton LLP

New York, New York
October 23, 2003

The Structured Finance Business of Arbor Commercial Mortgage, LLC and Subsidiaries

Consolidated Statements of Assets and Liabilities

	June 30,	December 31,	
	2003	2002	2001
	(unaudited)		
Assets			
Loans and investments, net	$204,561,578	$172,142,511	$160,183,066
Related party loans, net	23,277,041	15,952,078	15,880,207
Investment in equity affiliates	3,654,573	2,586,026	2,957,072
Real estate owned	7,542,439	7,258,931	—
Other assets	2,632,329	2,623,690	4,693,402
Total assets	$241,667,960	$200,563,236	$183,713,747
Liabilities			
Notes payable and repurchase agreements	$171,045,404	$141,836,477	$132,409,735
Other liabilities	1,640,962	2,444,329	1,676,566
Total liabilities	172,686,366	144,280,806	134,086,301
Commitments and contingencies	—	—	—
Net Assets	$ 68,981,594	$ 56,282,430	$ 49,627,446

See notes to consolidated financial statements.

The Structured Finance Business of Arbor Commercial Mortgage, LLC and Subsidiaries

Consolidated Statements of Revenue and Direct Operating Expenses

	Six Months Ended June 30, 2003	Nine Months Ended September 30, 2002	Year Ended December 31,		
	(unaudited)	(unaudited)	2002	2001	2000
Revenue:					
Interest income	$ 7,688,465	$10,798,414	$14,532,504	$14,667,916	$10,707,551
Gain on sale of loans and real estate	1,024,268	7,006,432	7,470,999	3,226,648	1,880,825
Income from equity affiliates	—	632,350	632,350	1,403,014	5,028,835
Other income	1,552,414	572,161	1,090,106	1,668,215	652,970
Total revenue	10,265,147	19,009,357	23,725,959	20,965,793	18,270,181
Direct operating expenses:					
Interest expense	3,468,275	4,832,260	6,586,640	7,029,374	5,518,463
Employee compensation and benefits	1,751,147	2,105,445	2,827,191	2,888,603	3,026,324
Selling and administrative	485,266	582,850	910,924	839,823	442,487
Provision for loan losses	60,000	3,255,000	3,315,000	240,000	240,000
Total direct operating expenses	5,737,688	10,775,555	13,639,755	10,997,800	9,227,274
Revenue in excess of direct operating expenses	$ 4,527,459	$ 8,233,802	$10,086,204	$ 9,967,993	$ 9,042,907

See notes to consolidated financial statements.

The Structured Finance Business of Arbor Commercial Mortgage, LLC and Subsidiaries

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS
December 31, 2002, 2001 and 2000,
and for the Six Months Ended (unaudited) June 30, 2003
and the Nine Months Ended (unaudited) September 30, 2002

NOTE 1 -DESCRIPTION OF BUSINESS AND BASIS OF PRESENTATION

On July 1, 2003 Arbor Commercial Mortgage, LLC ("ACM") contributed a portfolio of structured finance investments and related debt to Arbor Realty Limited Partnership ("ARLP"), the operating partnership of Arbor Realty Trust, Inc. ("ART"). In addition, certain employees of ACM were transferred to ARLP. These assets, liabilities and employees represent a substantial portion of ACM's structured finance business ("SF Business") or (the "Company"). Through its SF Business, ACM invests in real estate related bridge and mezzanine loans, preferred equity and, in limited cases, and other real estate related assets.

The SF Business of Arbor Commercial Mortgage, LLC is not a legal entity and the assets and liabilities associated with the SF Business are components of a larger business. Accordingly, the information included in the accompanying consolidated financial statements has been obtained from ACM's consolidated historical accounting records. The SF Business never operated as a separate business entity or division of ACM but rather as an integrated part of ACM's consolidated business. Accordingly, the statements of revenue and direct operating expenses do not include charges from ACM for corporate general and administrative expense because ACM considered such items to be corporate expenses and did not allocate them to individual business units. Such expenses included costs for ACM's executive management, corporate facilities and overhead costs, corporate accounting and treasury functions, corporate legal matters and other similar costs.

The statements of revenue and direct operating expenses include the revenue and direct operating expenses that relate to the SF Business. Direct operating expenses include interest expense applicable to the funding costs of the SF Business loans and investments, salaries and related fringe benefit costs, provision for loan losses and other expenses directly associated with revenue-generating activities. Direct operating expenses also include allocations of certain expenses, such as telephone, office equipment rental and maintenance, office supplies and marketing, which were directly associated with the SF Business and were allocated based on headcount of the SF Business in relation to the total headcount of ACM. All of these allocations are based on assumptions that management believes are reasonable under the circumstances.

A statement of cash flows is not presented because the SF Business did not maintain a separate cash balance. Other than the debt required to fund the loans and investments made by the SF Business, its operating activities were funded by ACM. Because the SF Business never operated as a separate business or division of ACM, the accompanying consolidated financial statements are not intended to be a complete presentation of the historical financial position, results of operations and cash flows of the SF Business. The historical operating results of the SF Business may not be indicative of the future operating results of ART. The accompanying consolidated financial statements were prepared for inclusion in the Form S-11 of ART and do not purport to reflect the assets and liabilities or results of operations that would have resulted if the SF Business had operated as an unaffiliated independent company.

The Structured Finance Business of Arbor Commercial Mortgage, LLC and Subsidiaries

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS
December 31, 2002, 2001 and 2000,
and for the Six Months Ended (unaudited) June 30, 2003
and the Nine Months Ended (unaudited) September 30, 2002

NOTE 2 - SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

Use of Estimates

The preparation of consolidated financial statements in conformity with accounting principals generally accepted in the United States of America requires management to make estimates and assumptions in determining the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the consolidated financial statements and the reported amounts of revenue and expenses during the reporting period. Actual results could differ from those estimates.

Real Estate Owned

Real estate owned represents commercial real estate property which the SF Business owns and operates. Such assets are not depreciated and are carried at the lower of cost or fair value less cost to sell. The Company reviews its real estate assets for impairment whenever events or changes in circumstances indicate that the carrying amount of an asset may not be recoverable.

Loans and Investments

Loans held for investment are intended to be held to maturity and, accordingly, are carried at cost, net of unamortized loan origination costs and fees, unless such loan or investment is deemed to be impaired.

The SF Business invests in preferred equity interests that allow the SF Business to participate in a percentage of the underlying property's cash flows from operations and proceeds from a sale or refinancing. At the inception of each such investment, management must determine whether such investment should be accounted for as a loan, joint venture or as real estate. To date, management has determined that all such investments are properly accounted for and reported as loans.

Specific valuation allowances are established for impaired loans based on the fair value of collateral on an individual loan basis. The fair value of the collateral is determined by an evaluation of operating cash flow from the property during the projected holding period, and estimated sales value computed by applying an expected capitalization rate to the stabilized net operating income of the specific property, less selling costs, discounted at market discount rates. If upon completion of the valuation, the fair value of the underlying collateral securing the impaired loan is less than the net carrying value of the loan, an allowance is created with a corresponding charge to the provision for loan losses. The allowance for each loan is maintained at a level believed adequate by management to absorb probable losses.

The Structured Finance Business of Arbor Commercial Mortgage, LLC and Subsidiaries

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS
December 31, 2002, 2001 and 2000,
and for the Six Months Ended (unaudited) June 30, 2003
and the Nine Months Ended (unaudited) September 30, 2002

NOTE 2 - SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (continued)

Revenue Recognition

The revenue recognition policies of the SF Business are as follows:

Interest Income – Interest income is recognized on the accrual basis as it is earned. In most instances, the borrower pays an origination fee, an additional amount of interest at the time the loan is closed, and deferred interest upon maturity of the loan. This additional income, as well as any direct loan origination costs incurred, is deferred and recognized over the life of the related loan as a yield adjustment. Income recognition is suspended for loans when in the opinion of management a full recovery of income and principal becomes doubtful. Income recognition is resumed when the loan becomes contractually current and performance is demonstrated to be resumed Several of the loans provide for accrual of interest at specified rates, which differ from current payment terms. Interest is recognized on such loans at the accrual rate subject to management's determination that accrued interest and outstanding principal are ultimately collectible, based on the underlying collateral and operations of the borrower. If management cannot make this determination regarding collectibility, interest income is recognized only upon actual receipt.

Gain on sale of loans and real estate– For the sale of loans and real estate, revenue recognition occurs when all the incidence of ownership passes to the buyer. In some circumstances, the SF Business may retain an interest in the property. When this occurs, the investment in real estate retained is recorded at its allocated cost and revenue is recognized on the percentage of the property sold.

Income from equity affiliates – The SF Business has several joint ventures that were formed to lend to, acquire, develop and/or sell real estate assets. Such investments are recorded under the equity method. The company records its share of the net income from the underlying properties. The gain or loss on disposition of a joint venture interest is recorded as gain on sale of loans and real estate.

Other Income – Other income includes several types of income which are recorded upon receipt. Certain of the Company's loans and investments provide for additional payments based on the borrower's operating cash flow, appreciation of the underlying collateral, payments calculated based on the timing of when the loan pays off and changes in interest rates. Such amounts are not readily determinable and are recorded as other income upon receipt.

Income Taxes

No provision or benefit for income taxes has been provided in the accompanying consolidated financial statements due to the fact that the SF Business was not operated as a stand-along unit and no allocation of ACM's income tax provision/benefit has been made to the SF Business. ACM is a limited liability company (which is taxed as a partnership), and accordingly, the taxable income or loss of ACM is included in the federal and state income tax returns of ACM's individual members.

The Structured Finance Business of Arbor Commercial Mortgage, LLC and Subsidiaries

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS
December 31, 2002, 2001 and 2000,
and for the Six Months Ended (unaudited) June 30, 2003
and the Nine Months Ended (unaudited) September 30, 2002

NOTE 2 - SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (continued)

Recently Issued Accounting Pronouncements

In January 2003, the FASB issued FASB Interpretation No. 46, "Consolidation of Variable Interest Entities" ("FIN 46"). FIN 46 provides guidance on identifying entities for which control is achieved through means other than through voting rights (a "variable interest entities" or "VIE"), and how to determine when and which business enterprise should consolidate a VIE. In addition, FIN 46 requires that both the primary beneficiary and all other enterprises with a significant variable interest in VIE make additional disclosures. The transitional disclosure requirements will take effect almost immediately and are required for all consolidated financial statements initially issued after January 31, 2003. Management is in the process of evaluating all of its mezzanine loans and preferred equity investments, which may be deemed variable interest entities under the provision of FIN 46. A definitive conclusion can not be reached until the evaluation has been completed.

NOTE 3 – SELECTED CASH FLOW INFORMATION

A statement of cash flows is not presented because the SF Business did not maintain a separate cash balance. Other than the debt required to fund the loans and investments of the SF Business, operating activities were funded by ACM. Selected cash flow from investing and financing activities is presented below.

	June 30, 2003 (unaudited)	September 30, 2002 (unaudited)	December 31, 2002	December 31, 2001	December 31, 2000
Cash flows from investing activities:					
Loans and investments originated	$(117,176,849)	$(58,337,833)	$(116,810,564)	$(53,165,836)	$(60,004,410)
Payoffs and paydowns of loans and investments	76,106,055	73,445,047	105,608,865	62,044,959	22,982,044
Proceeds from sale of real estate held for sale	—	—	—	9,801,548	—
Purchase of joint venture interest	—	—	—	(7,619,272)	—
Cash flows from financing activities:					
Proceeds from notes payable and repurchase agreements	93,228,860	44,410,400	86,853,319	57,558,552	51,316,473
Payoffs and paydowns of notes payable and repurchase agreements	(64,019,933)	(62,733,182)	77,426,577	(63,111,680)	(27,997,502)

The Structured Finance Business of Arbor Commercial Mortgage, LLC and Subsidiaries

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS
December 31, 2002, 2001 and 2000,
and for the Six Months Ended (unaudited) June 30, 2003
and the Nine Months Ended (unaudited) September 30, 2002

NOTE 4 - LOANS AND INVESTMENTS

	June 30, 2003 (unaudited)	December 31, 2002	December 31, 2001
Bridge loans	$120,784,295	$ 93,789,934	$ 81,947,873
Mezzanine loans	56,571,799	59,483,271	58,481,072
Preferred equity investments	20,492,643	12,530,562	5,491,001
Other	11,005,835	9,469,039	18,151,162
	208,854,572	175,272,806	164,071,108
Unearned revenue	(2,620,513)	(1,167,814)	(2,223,042)
Allowance for loan losses	(1,672,481)	(1,962,481)	(1,665,000)
Loans and investments, net	$204,561,578	$172,142,511	$160,183,066

In 2001 the Company had $1,665,000 in allowance for loan losses related to three bridge loans, that were deemed to be impaired. In accordance with the Company's policy for revenue recognition, income recognition was suspended on these loans. In 2002 these loans were repaid and the total outstanding principal balance was collected. The $1,665,000 of allowance for loan losses was re -allocated to the loans that were deemed to be impaired in 2002.

A bridge loan with a carrying value of $10,333,931 was foreclosed and reclassified as real estate owned in 2002. Prior to foreclosure, the Company in 2002 recorded a provision for loan losses of $3,075,000 to reflect this asset at its estimated fair value plus estimated foreclosure cost. This amount was charged-off when the loan was reclassified as real estate owned. In 2003 the Company paid approximately $284,000 in foreclosure related cost, which were added to this assets carrying value.

A bridge loan with a carrying value of $4,100,000 was deemed to be impaired in 2002 and $700,000 of allowance for loan losses was allocated to this loan to reflect this loan at its estimated fair value. In accordance with the Company's policy for revenue recognition, income recognition has been suspended on this loan. In 2003, the Company received a $3.75 million payment from the borrower in partial satisfaction of the loan, which amount was $350,000 in excess of the loan's carrying value. The Company reduced its allowance for loan losses and recorded other income for the excess amount received.

A bridge loan and a mezzanine loan, secured by the same property, with a carrying value of $10,584,492 was deemed to be impaired in 2002 and $305,000 of allowance for loan losses was allocated to these loans to reflect these loans at their estimated fair values. In accordance with the Company's policy for revenue recognition, income recognition has been suspended on these loans

A mezzanine loan with a carrying value of $1,728,552 was deemed to be impaired in 2002 and $660,000 of allowance for possible loan losses was allocated to this loan as well as a $300,000 provision for loan losses was recorded to reflect this loan at its estimated fair value. In accordance with the Company's policy for revenue recognition, income recognition has been suspended on this loan.

The Structured Finance Business of Arbor Commercial Mortgage, LLC and Subsidiaries

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS
December 31, 2002, 2001 and 2000,
and for the Six Months Ended (unaudited) June 30, 2003
and the Nine Months Ended (unaudited) September 30, 2002

NOTE 4 - LOANS AND INVESTMENTS (continued)

Allowance for Loan Losses:

	June 30, 2001 (unaudited)	December 31, 2002	December 31, 2001
Beginning balance	$1,962,481	$ 1,665,000	$1,425,000
Provision for loan losses	60,000	3,315,000	240,000
Amounts charged against allowance for loan losses	(350,000)	(3,017,519)	—
Ending balance	$1,672,481	$ 1,962,481	$1,665,000

Concentration of Borrower Risk

The Company is subject to concentration risk in that, as of June 30, 2003, December 31, 2002 and 2001, the unpaid principal balance relating to ten, eleven and eight loans represented approximately 36%, 46% and 37% of total loans held for investment and are with four, five and three unrelated borrowers, respectively. The total number of loans and investments by the Company was 40, 36 and 34 as of June 30, 2003, December 31, 2002 and 2001, respectively.

The Structured Finance Business of Arbor Commercial Mortgage, LLC and Subsidiaries

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS
December 31, 2002, 2001 and 2000,
and for the Six Months Ended (unaudited) June 30, 2003
and the Nine Months Ended (unaudited) September 30, 2002

NOTE 5 - BUSINESS ACQUISITIONS AND INVESTMENT IN EQUITY AFFILIATES

In June 1998, the Company entered into a joint venture, Mezzobridge Funding, LLC, with SFG I, an affiliate of Nomura Asset Capital Corp. for the purpose of acquiring up to $250 million of structured finance investments. Capital contributions and profits were shared equally by the partners. Nomura Asset Capital Corp. provided financing to the joint venture in the form of a repurchase agreement. The interest rate charged for the financing was based on LIBOR. On July 31, 2001, the Company purchased from SFG I their interest in the joint venture.

This transaction was accounted for by the purchase accounting method. The activities of the former joint venture have been included in the Company's statements of revenue and direct operating expenses from the date of acquisition, August 2001. Summarized financial data of this joint venture is as follows:

	July 31, 2001 (unaudited)	December 31, 2000
Balance sheets		
Assets		
Cash	$ 1,975,408	$ 1,094,142
Loans held for investment, net	95,130,987	123,761,555
Other receivables and deferred costs	3,320,677	3,708,390
Total assets	$100,427,072	$128,564,087
Liabilities and members' capital		
Liabilities		
Notes payable - repurchase agreement	$ 67,494,364	$ 90,615,593
Accounts payable and accrued expenses	661,198	1,133,453
Total liabilities	68,155,562	91,749,046
Members' capital		
Arbor	16,135,755	18,407,520
Other partner	16,135,755	18,407,521
Total members' capital	32,271,510	36,815,041
Total liabilities and members' capital	$100,427,072	$128,564,087

The Structured Finance Business of Arbor Commercial Mortgage, LLC and Subsidiaries

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS
December 31, 2002, 2001 and 2000,
and for the Six Months Ended (unaudited) June 30, 2003
and the Nine Months Ended (unaudited) September 30, 2002

NOTE 5 - BUSINESS ACQUISITIONS AND INVESTMENT IN EQUITY AFFILIATES (continued)

	Seven Months Ended July 31, 2001 (unaudited)	Year Ended December 31, 2000
Statements of operations		
Interest earned	$ 5,446,464	$ 17,835,318
Interest and other expenses	4,578,950	10,422,280
Net income	$ 867,514	$ 7,413,038
Net income allocated to:		
Arbor	$ 433,757	$ 3,706,519
Other partner	433,757	3,706,519
Total	$ 867,514	$ 7,413,038

The Company purchased the entire interest of its partner for $16,135,755, which was equal to the members' capital of the partner on the date of purchase. The Company financed this purchase with increased debt on the existing repurchase agreement of $6,541,075 and cash of $9,594,680, of which $1,975,408 was on hand in the joint venture at the date of purchase and was distributed to the partner. In conjunction with the purchase, the existing repurchase agreement was assumed by the Company. The repurchase agreement expires in November 2003.

The Company had a 26% interest in a joint venture, which owns and operates a multi-family real estate property. At December 31, 2001 and 2000 the Company's investment in this joint venture was approximately $900,000 and $1.2 million, respectively. During 2001 and 2000 the Company recorded net income from this joint venture of $1,022,165 and $1,267,844, respectively. In March of 2002, the Company sold its investment in the joint venture and recorded a gain of $6.8 million. The Company received net income from this joint venture of $588,600 prior to the sale in 2002.

The Company has several other joint ventures that were formed to acquire, develop and/or sell real estate assets which the Company does not control. At June 30, 2003, December 31, 2002 and 2001, the Company's investments in these joint ventures were approximately $3.7 million, $2.6 million and $2.1 million, respectively. The Company recorded net income from these joint ventures of $43,750 in 2002 and net losses of $52,908 in 2001.

The Structured Finance Business of Arbor Commercial Mortgage, LLC and Subsidiaries

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS
December 31, 2002, 2001 and 2000,
and for the Six Months Ended (unaudited) June 30, 2003
and the Nine Months Ended (unaudited) September 30, 2002

NOTE 6 - NOTES PAYABLE AND REPURCHASE AGREEMENTS

The Company utilizes warehouse lines of credit and repurchase agreements to finance its loans and investments. Borrowings underlying these arrangements are secured by substantially all the Company's loans and investments.

	June 30, 2003 (unaudited)	December 31, 2002	2001
Structured transaction facility, financial institution, $150 million committed line, expiration August 2004, interest rate variable based on LIBOR; the weighted average note rate was 4.13%, 4.07% and 5.50%, respectively.	$ 92,154,975	$ 70,184,219	$ 61,720,900
Repurchase agreement, financial institution, $100 million committed line, expiration November 2003 interest is variable based on LIBOR; the weighted average note rate was 3.40%, 3.42% and 4.44% respectively.	75,548,867	68,267,260	66,941,689
Repurchase agreement, financial institution, $50 million committed line, expiration November 2005, interest rate variable based on LIBOR.	—	—	n/a
Repurchase agreement, financial institution, uncommitted line, Interest rate variable based on LIBOR; the weighted average note rate was 3.02%, 3.35% and 3.68%, respectively.	3,341,562	3,384,998	3,747,146
Notes payable and repurchase agreements	$171,045,404	$141,836,477	$132,409,735

The $150 million structured transaction facility contains profit-sharing arrangements between the Company and the lender which provide for profit sharing percentages ranging from 30% to 45% of net interest income of the loans and investments financed. This cost is included in interest expense.

Each of the credit facilities contains various financial covenants and restrictions, including minimum net worth and debt-to-equity ratios. The Company is in compliance with all covenants and restrictions for all periods presented.

In conjunction with ACM's contribution of a portfolio of structured finance investments and related debt to ARLP the operating partnership of ART, the structured finance facility and the two committed repurchase agreements were assigned to ARLP pursuant to agreements with the relevant financial institutions.

The Structured Finance Business of Arbor Commercial Mortgage, LLC and Subsidiaries

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS
December 31, 2002, 2001 and 2000,
and for the Six Months Ended (unaudited) June 30, 2003
and the Nine Months Ended (unaudited) September 30, 2002

NOTE 7 - COMMITMENTS AND CONTINGENCIES

Litigation

In the normal course of business, the Company is subject to various legal proceedings and claims, the resolution of which, in management's opinion, will not have a material adverse effect on the financial position or the results of operations of the Company.

NOTE 8 - FAIR VALUE OF FINANCIAL INSTRUMENTS

The following table summarizes the carrying values and the estimated fair values of financial instruments as of June 30, 2003, December 31, 2002 and 2001. Fair value estimates are dependent upon subjective assumptions and involve significant uncertainties resulting in variability in estimates with changes in assumptions.

	June 30, 2003 (unaudited)		December 31, 2002		December 31, 2001	
	Carrying Value	Estimated Fair Value	Carrying Value	Estimated Fair Value	Carrying Value	Estimated Fair Value
Financial assets:						
Loans and investments, net	$204,561,578	$204,561,578	$172,142,511	$172,142,511	$160,183,066	$160,183,066
Related party loans, net	23,277,041	23,277,041	15,952,078	15,952,078	15,880,207	15,880,207
Financial liabilities:						
Notes payable and repurchase agreements	171,045,404	171,045,404	141,836,477	141,836,477	132,409,735	132,409,735

The following methods and assumptions were used by the Company in estimating the fair value of each class of financial instrument:

Loans and investments, net: Fair values of variable-rate loans and investments with no significant change in credit risk are based on carrying values. Fair values of other loans and investments are estimated using discounted cash flow methodology, using discount rates, which, in the opinion of management, best reflect current market interest rates that would be offered for loans with similar characteristics and credit quality.

Related party loans, net: Fair values of variable-rate loans and investments with no significant change in credit risk are based on carrying values. Fair values of other loans and investments are estimated using discounted cash flow methodology, using discount rates, which, in the opinion of management, best reflect current market interest rates that would be offered for loans with similar characteristics and credit quality.

Notes payable and repurchase agreements: Fair values approximate the carrying values reported in the balance sheets.

The Structured Finance Business of Arbor Commercial Mortgage, LLC and Subsidiaries

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS
December 31, 2002, 2001 and 2000,
and for the Six Months Ended (unaudited) June 30, 2003
and the Nine Months Ended (unaudited) September 30, 2002

NOTE 9 - RELATED PARTY TRANSACTIONS

Related Party Loans:

	June 30, 2003 (unaudited)	December 31, 2002	December 31, 2001
Bridge loans	$16,000,000	$16,000,000	$16,000,000
Mezzanine loans	7,489,027	—	—
	23,489,027	16,000,000	16,000,000
Unearned revenue	(211,986)	(47,922)	(119,793)
Related party loans, net	$23,277,041	$15,952,078	$15,880,207

The Company has a 50% non-controlling interest in a joint venture, which was formed to acquire, develop and/or sell real estate assets. At June 30, 2003, December 31, 2002 and 2001, the Company's investments in this joint venture were approximately $2.6 million, $2.3 million and $1.8 million, respectively. The Company accounts for this investment under the equity method. At June 30, 2003 and December 31, 2002, the Company had a $16.0 million bridge loan outstanding to the joint venture, which is collateralized by a first lien position on a commercial real estate property. There is a limited guarantee on the loan of 50% by the chief executive officer of ACM and 50% by the key principal of the joint venture. The loan requires monthly interest payments based on LIBOR and matures in October 2004. In connection with the joint venture agreement the Company has agreed to provide the borrower with additional mezzanine financing in the amount of up to $8.0 million. The mezzanine financing requires interest payments based on LIBOR and matures in May 2006. The loan will be funded in two equal installments of $4.0 million. The funding will be drawn down as construction progresses. The interest on the first component, which was funded in June 2003, will be earned on the full $4.0 million, while the interest on the second component, which has yet to be funded, will be earned as the $4.0 million is drawn down. This additional financing is secured by a second mortgage lien on the property. In addition, an interest and renovation reserve totaling $2.5 million is in place to cover both the bridge and mezzanine loans. Interest income recorded from these loans was approximately $217,000, $449,000 and $148,000 for the periods ended June 30, 2003, December 31, 2002 and 2001, respectively.

In June 2003, the Company invested approximately $818,000 in exchange for a 12.5% non-controlling interest in a joint venture, which was formed to acquire, develop and/or sell real estate assets. The Company accounts for this investment under the equity method. In June 2003, the Company funded two mezzanine loans to this joint venture totaling $6.0 million. The loans require monthly interest payments based on LIBOR and mature in May 2006. Interest income recorded from these loans was approximately $8,000 for the period ended June 30, 2003.

The Structured Finance Business of Arbor Commercial Mortgage, LLC and Subsidiaries

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS
December 31, 2002, 2001 and 2000,
and for the Six Months Ended (unaudited) June 30, 2003
and the Nine Months Ended (unaudited) September 30, 2002

NOTE 10 – SUBSEQUENT EVENTS

In June 2003 ART, a real estate investment trust was formed to invest in structured finance assets, particularly real estate related bridge and mezzanine loans, preferred equity and, in limited cases, discounted mortgage notes and other real estate related assets. On July 1, 2003 in exchange for a commensurate equity ownership in ART's operating subsidiary ARLP, ACM contributed $213.1 million of structured finance assets and $169.2 million of borrowings supported by $43.9 million of equity. In addition, certain employees of ACM were transferred to ARLP. These assets, liabilities and employees represent the substantial portion of ACM's SF Business.

On July 1, 2003 ART completed a private placement of ART's units, each consisting of five shares of common stock and one warrant to purchase one share of common stock. Gross proceeds from the private financing combined with the concurrent equity contribution by ACM totaled approximately $165 million in equity capital. ART will be externally managed and advised by ACM and will pay ACM a management fee in accordance with the management agreement. ACM will also originate, underwrite and service all structured finance assets on behalf of ARLP.

NOTE 11 – UNAUDITED PRO FORMA CONSOLIDATED FINANCIAL INFORMATION

In June, 2003 ACM formed ART, a newly organized real estate investment trust to operate and expand its SF Business. On July 1, 2003 ART completed a private placement of ART's units, each consisting of five shares of ART's common stock and one warrant to purchase one share of common stock. Gross proceeds from the private financing totaled $120.2 million. In exchange for a commensurate equity ownership in ART's operating subsidiary, ARLP, ACM contributed $213.1 million of structured finance assets and $169.2 million of borrowings supported by $43.9 million of equity. These assets and liabilities were contributed at book value, which approximates market value, and represent 88% of the assets and 98% of the liabilities of the SF Business as of June 30, 2003. In addition, certain employees of ACM were transferred to ARLP.

ART will be externally managed and advised by ACM and will pay ACM a management fee in accordance with the terms of the management agreement among ACM, ART and ARLP. ACM will also source originations, provide underwriting services and service all structured finance assets on behalf of ARLP. As a result, the operating expenses as presented in the historical consolidated financial statements would have been affected had ART been formed at an earlier time. Employee compensation and benefits expense would have decreased by $895,811 and $1,518,890 for the six months ended June 30, 2003 and year ended December 31, 2002, respectively, because these costs would have been borne by ACM under terms of the management agreement. Similarly, selling and administrative expense would have decreased by $65,752 and $127,753 for the six months ended June 30, 2003 and year ended December 31, 2002, respectively.

In accordance with the terms of the management agreement, ACM will receive a management fee, composed of a base management fee and incentive compensation. The annual base management fee is payable monthly in cash as a percentage of ARLP's equity and equal to 0.75% per annum of the equity up to $400 million, 0.625% per annum of the equity from $400 million to $800 million and 0.5% per annum of the equity in excess of $800 million. For purposes of calculating the base management fee, equity equals the month end value computed in accordance with generally accepted accounting principles of (1) total partners' equity in ARLP, plus or minus (2) any unrealized gains, losses or other items that do not affect realized net income.

The Structured Finance Business of Arbor Commercial Mortgage, LLC and Subsidiaries

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS
December 31, 2002, 2001 and 2000,
and for the Six Months Ended (unaudited) June 30, 2003
and the Nine Months Ended (unaudited) September 30, 2002

NOTE 11 – UNAUDITED PRO FORMA CONSOLIDATED FINANCIAL INFORMATION — (Continued)

ART will also pay ACM incentive compensation each fiscal quarter, calculated as (1) 25% of the amount by which (a) ARLP's funds from operations per unit of partnership interest in ARLP, adjusted for certain gains and losses, exceeds (b) the product of (x) 9.5% per annum or the 10 year Treasury Rate plus 3.5%, whichever is greater, and (y) the weighted average of book value of the net assets contributed by ACM to ARLP per ARLP partnership unit, the offering price per share of ART's common equity in the private offering on July 1, 2003 and subsequent offerings and the issue price per ARLP partnership unit for subsequent contributions to ARLP, multiplied by (2) the weighted average of ARLP's outstanding partnership units. At least 25% of this incentive compensation is paid to ACM in shares of ART's common stock, subject to ownership limitations in ART's charter. ART has also agreed to share with ACM a portion of the origination fees that it receives on loans it originates through ACM.

This pro forma information does not reflect the results of the private financing. However, gross proceeds from the private financing totaled $120.2 million, which combined with ACM's equity contribution of $43.9 million, resulted in total contributed capital of $164.1 million. Offering expenses of $9.6 million were paid by ART, resulting in stockholders equity and minority interest of ART of $154.5 million at its inception.

INDEX TO FINANCIAL STATEMENTS OF MEZZOBRIDGE FUNDING LLC

REPORT OF INDEPENDENT CERTIFIED PUBLIC ACCOUNTANTS

To the Members of
Mezzobridge Funding LLC

We have audited the accompanying balance sheet of Mezzobridge Funding LLC (the "Company") as of December 31, 2000, and the related statements of operations, members' capital, and cash flows for the year then ended. These financial statements are the responsibility of the Company's management. Our responsibility is to express an opinion on these financial statements based on our audit.

We conducted our audit in accordance with auditing standards generally accepted in the United States of America. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audit provides a reasonable basis for our opinion.

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of Mezzobridge Funding LLC as of December 31, 2000, and the results of its operations and its cash flows for the year then ended, in conformity with accounting principles generally accepted in the United States of America.

Grant Thornton LLP

New York, New York
February 2, 2001

Mezzobridge Funding LLC

BALANCE SHEET

December 31, 2000

Assets	
Cash and cash equivalents	$ 1,094,142
Loans held for investment, net	123,761,555
Other receivables and deferred costs	3,708,390
Total assets	$128,564,087
Liabilities and members' capital	
Note payable - repurchase agreement	$ 90,615,593
Accounts payable and accrued expenses	1,133,453
Total liabilities	91,749,046
Commitments and contingencies	
Members' capital	36,815,041
Total liabilities and members' capital	$128,564,087

The accompanying notes are an integral part of this statement.

Mezzobridge Funding LLC

STATEMENT OF OPERATIONS

Year ended December 31, 2000

Revenues	
Interest earned	$17,835,318
Total revenues	$17,835,318
Expenses	
Interest expense	9,472,612
Selling, general and administrative	49,668
Provision for possible loan losses	900,000
Total expenses	10,422,280
Net income	$ 7,413,038

The accompanying notes are an integral part of this statement.

Mezzobridge Funding LLC

STATEMENT OF MEMBERS' CAPITAL

Year ended December 31, 2000

	Arbor	SFG	Total
Balance - December 31, 1999	$15,488,077	$15,388,139	$ 30,876,216
Capital contributions	$ 4,811,847	$ 4,811,847	$ 9,623,694
Withdrawals and distributions	(5,598,923)	(5,498,984)	(11,097,907)
Net income	3,706,519	3,706,519	7,413,038
Balance - December 31, 2000	$18,407,520	$18,407,521	$ 36,815,041

The accompanying notes are an integral part of this statement.

Mezzobridge Funding LLC

STATEMENT OF CASH FLOWS

Year ended December 31, 2000

Operating activities	
Net income	$ 7,413,038
Adjustments to reconcile net income to net cash provided by operating activities	
Provision for possible loan losses	900,000
Changes in operating assets and liabilities	
Loans held for investment, net	7,189,061
Loans held for sale, net	—
Other receivables and deferred costs	(2,515,523)
Accounts payable and accrued expenses	(127,449)
Net cash provided by operating activities	12,859,127
Financing activities	
Decrease in note payable - repurchase agreement	(12,985,409)
Capital contributions by members	9,623,694
Withdrawals and distributions to members	(11,097,907)
Net cash used in financing activities	(14,459,622)
Net decrease in cash and cash equivalents	(1,600,495)
Cash and cash equivalents at beginning of year	2,694,637
Cash and cash equivalents at end of year	$ 1,094,142
Supplemental disclosure of cash flow information:	
Cash paid during the year for interest	$ 9,566,517

The accompanying notes are an integral part of this statement.

Mezzobridge Funding LLC

NOTES TO FINANCIAL STATEMENTS

December 31, 2000

NOTE 1 - ORGANIZATION AND SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

Organization

Mezzobridge Funding LLC (the "Company"), a Delaware limited liability company, was organized in June 1998 as a result of a joint venture agreement entered into between Arbor National Commercial Mortgage, LLC ("Arbor"), a New York limited liability company, and SFG1 ("SFG"), a Delaware business trust, whereby they would both own 50% of the Company. Capital contributions and profits are predominantly shared equally between the partners. This agreement provides for the Company to acquire up to $250 million in financing transactions with Nomura Asset Capital Corporation ("Nomura"), an affiliate of SFG, providing $200 million of financing, including $75 million for mezzanine loans, to the Company in the form of a repurchase agreement. The interest rate charged for the financing is LIBOR plus 2%. The repurchase agreement expires in June, 2001.

The Company seeks out and funds, on a negotiated basis, high yielding lending and investment opportunities in commercial real estate through mezzanine loans, bridge loans, note acquisitions and other financing structures. The Company may also originate mortgages for sale into conduit programs.

Use of Estimates

The preparation of financial statements in conformity with accounting principles generally accepted in the United States of America requires management to make estimates and assumptions that affect the amounts reported in the financial statements and accompanying notes. Actual results could differ from these estimates.

Cash and Cash Equivalents

Cash and cash equivalents include cash on hand and in banks and short-term investments with maturities of three months or less at purchase.

Loans Held for Investment

Loans held for investment are collateralized by commercial real estate, which the Company intends to hold to maturity. These loans are carried at cost unless the loan is impaired. The Company measures the impairment of these loans based upon the fair value of the underlying collateral which is determined on an individual loan basis. The fair value of the collateral is determined by an evaluation of operating cash flow from the property during the projected holding period, and estimated sales value computed by applying an

Mezzobridge Funding LLC

NOTES TO FINANCIAL STATEMENTS (continued)

December 31, 2000

NOTE 1 - ORGANIZATION AND SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (continued)

expected capitalization rate to the stabilized net operating income of the specific property, less selling costs, discounted at market discount rates. If upon completion of the valuations, the fair value of the underlying collateral securing the impaired loan is less than the recorded loan, an allowance is created with a corresponding charge to expense.

Revenue Recognition

Fees earned on loans held for investment are deferred and accreted into income as an adjustment to yield over the life of the loan. Fees earned on loans held for sale are recognized when all the incidence of ownership passes to the buyer.

Income Taxes

The Company is a limited liability company (which is taxed as a partnership) and, accordingly, the taxable income or loss of the Company is includable in the Federal and state income tax returns of the Company's individual members. The Company will incur state income taxes in those states where it is not recognized as a limited liability company.

NOTE 2 - LOANS HELD FOR INVESTMENT

Loans held for investment at December 31, 2000 consist of:

Principal	$128,210,413
Unearned discount, net	(2,458,858)
Allowance for possible loan losses	(1,990,000)
Loans held for investment, net	$123,761,555

Concentration of Borrower Risk

The Company is subject to concentration risk in that, as of December 31, 2000, the unpaid principal balance relating to two loans represented approximately 30.2% of total loans held for investment. These loans are with two unrelated borrowers. The Company had 15 loans held for investment as of December 31, 2000.

Mezzobridge Funding LLC

NOTES TO FINANCIAL STATEMENTS (continued)

December 31, 2000

NOTE 3 - NOTE PAYABLE - REPURCHASE AGREEMENT

The Company utilizes a repurchase agreement with Nomura in conjunction with its lending and investing activities. Borrowings under this agreement are secured by all of the Company's loans held for investment.

The repurchase agreement provides the Company with a $200 million committed line that expires June 2001 with interest variable based on LIBOR. In the event the expiration date is not extended, the repurchase agreement will remain in effect for existing loans for an additional twelve-month period. The weighted-average note rate for 2000 was 8.39%. The amount outstanding under this agreement at December 31, 2000 was $90,615,593.

The repurchase agreement contains various financial covenants and restrictions, including minimum net worth and debt-to-equity ratios. The Company is in compliance with these covenants and restrictions.

NOTE 4 - MEMBERS' CAPITAL

The maximum capital contribution by Arbor and SFG under the joint venture agreement is $25 million each.

NOTE 5 - LOAN SERVICING

Arbor services the Company's commercial loan portfolio. The Company pays Arbor a fee for processing, underwriting and servicing these loans. Cash held in escrow on behalf of the Company by Arbor for certain of these mortgages at December 31, 2000 was approximately $2.3 million. These cash balances and related escrow liabilities are not reflected in the accompanying balance sheets. These escrows are maintained in separate accounts at a federally insured depository institution.

Mezzobridge Funding LLC

NOTES TO FINANCIAL STATEMENTS (continued)

December 31, 2000

NOTE 6 - FAIR VALUE OF FINANCIAL INSTRUMENTS

The following table summarizes the carrying values and the estimated fair values of financial instruments, as of December 31, 2000. Fair value estimates are dependent upon subjective assumptions and involve significant uncertainties resulting in variability in estimates with changes in assumptions.

	Carrying value	Estimated fair value
Financial assets:		
Cash and cash equivalents	$ 1,094,142	$ 1,094,142
Loans held for investment, net	123,761,555	123,761,555
Financial liabilities:		
Note payable - repurchase agreement	$ 90,615,593	$ 90,615,593

The following methods and assumptions were used by the Company in estimating the fair value of each class of financial instrument.

Cash and cash equivalents: Fair value approximates the carrying value reported in the balance sheets.

Loans held for investment, net: Fair values of variable-rate loans with no significant change in credit risk are based on carrying values. Fair values of other loans are estimated using discounted cash flow methodology, using discount rates, which, in the opinion of management, best reflect current market interest rates that would be offered for loans with similar characteristics and credit quality.

Note payable - repurchase agreement: Fair value approximates the carrying value reported in the balance sheets.

Prospective investors may rely only on the information contained in this Prospectus. Arbor has not authorized anyone to provide prospective investors with different or additional information. This Prospectus is not an offer to sell nor is it seeking an offer to buy these securities in any jurisdiction where the offer or sale is not permitted. The information contained in this Prospectus is correct only as of the date of this Prospectus, regardless of the time of the delivery of this Prospectus or any sale of these securities.

Until , 2004, (25 days after the date of this prospectus), all dealers that effect transactions in these securities, whether or not participating in this offering, may be required to deliver a prospectus. This requirement is in addition to the dealers' obligation to deliver a prospectus when acting as underwriters and with respect to their unsold allotments or subscriptions.

TABLE OF CONTENTS

[ARBOR LOGO]

Arbor Realty Trust, Inc.

1,602,833 Units

8,014,165 Shares of Common Stock Comprising the Units

1,602,833 Warrants Comprising the Units

1,602,833 Shares of Common Stock Underlying the Warrants

PROSPECTUS

_____, 200__

PART II

INFORMATION NOT REQUIRED IN PROSPECTUS

Item 31. Other Expenses of Issuance and Distribution.

The following table sets forth the costs and expenses expected to be incurred in connection with the sale and distribution of the securities being registered, all of which are being borne by the registrant.

Securities and Exchange Commission registration fee	$11,670.23
National Association of Securities Dealers, Inc. and Blue Sky Registration Fees	*
Printing and engraving expenses	*
Legal Fees and Expenses	*
Accounting Fees and Expenses	*
Miscellaneous	*
Total	*

* To be filed by amendment.

Item 32. Sales to Special Parties.

See Item 33.

Item 33. Recent Sales of Unregistered Securities

On June 26, 2003, in connection with the incorporation of Arbor Realty Trust, Inc. (the "Company"), the Company issued 67 shares of common stock, par value $.01 per share (the "Common Stock") to Arobr Commercial Mortgage, LLC ("ACM") for $1,005. Such issuance was exempt from the registration requirements of the Securities Act pursuant to Section 4(2) thereof.

On July 1, 2003 the Company sold 1,610,000 units, each unit consisting of five shares of Common Stock, and one warrant to purchase one share of Common Stock of the Company (the "Units"). Of the 1,610,000 Units sold, 1,327,989 Units (the "144A Units") were sold to Qualified Institutional Buyers (as defined in Rule 144A under the Securities Act) in reliance on the exemption from the registration requirements of the Securities Act provided by Rule 144A under the Securities Act and to a limited number of "accredited investors" (as defined in Rule 501 under the Securities Act) in reliance on the exemption from the registration requirements of the Securities Act provided by Regulation D under the Securities Act. The initial purchaser of such Units was JMP Securities LLC ("JMP"). The offering price per Unit was $75. The aggregate proceeds to the Company from such offering and the aggregate initial purchaser's discount were $92,627,232.75 and $6,971,942.25, respectively.

The remaining 282,011 Units (the "AI Units") were sold to certain accredited investors, including affiliates and employees of each of ACM and JMP, in reliance on the exemption from the registration requirements of the Securities Act provided by Regulation D under the Securities Act. JMP acted as placement agent in connection with the sale of the AI Units. The offering price per Unit was $75, except that 104,767 of the AI Units were sold to JMP employees and certain entities affiliated with JMP at a price of $69.75 per Unit. JMP received a placement fee of $5.25 for 91,697 of the AI Units sold to certain accredited investors and $2.25 for 85,547 of the AI Units sold to accredited investors who were affiliated with the Company. JMP did not receive a placement fee with respect to the sale of the 104,767 AI Units sold to JMP employees and certain entities affiliated with JMP. The aggregate proceeds to the Company from such offering and the aggregate placement fee to JMP were $19,926,908.25 and $673,890.00, respectively.

On July 1, 2003, the Company issued 3,146,724 shares of the Company's special voting preferred stock, par value $.01 per share (the "Special Preferred Stock") to ACM for $31,467. Such issuance was exempt from the registration requirements of the Securities Act pursuant to Section 4(2) thereof.

Item 34. Indemnification of Directors and Officers.

Maryland law permits a Maryland corporation to include in its charter a provision limiting the liability of its directors and officers to the corporation and its stockholders for money damages except for liability resulting from (a) actual receipt of an improper benefit or profit in money, property or services or (b) active and deliberate dishonesty established by a final judgment and which is material to the cause of action. The Company's charter contains such a provision which eliminates directors' and officers' liability to the maximum extent permitted by Maryland law.

The charter authorizes the Company, to the maximum extent permitted by Maryland law, to indemnify any present or former director or officer or any individual who, while a director of the Company and at the request of the Company, serves or has served another corporation, real estate investment trust, partnership, joint venture, trust, employee benefit plan or other enterprise as a director, officer, partner or trustee, from and against any claim or liability to which that person may become subject or which that person may incur by reason of his or her status as a present or former director or officer of the Company and to pay or reimburse their reasonable expenses in advance of final disposition of a proceeding. The bylaws obligate the Company, to the maximum extent permitted by Maryland law, to indemnify any present or former director or officer or any individual who, while a director of the Company and at the request of the Company, serves or has served another corporation, real estate investment trust, partnership, joint venture, trust, employee benefit plan or other enterprise as a director, officer, partner or trustee and who is made a party to the proceeding by reason of his service in that capacity from and against any claim or liability to which that person may become subject or which that person may incur by reason of his or her status as a present or former director or officer of the Company and to pay or reimburse their reasonable expenses in advance of final disposition of a proceeding. The charter and bylaws also permit the Company to indemnify and advance expenses to any person who served a predecessor of the Company in any of the capacities described above and any employee or agent of the Company or a predecessor of the Company.

Maryland law requires a corporation (unless its charter provides otherwise, which the Company's charter does not) to indemnify a director or officer who has been successful in the defense of any proceeding to which he is made a party by reason of his service in that capacity. Maryland law permits a corporation to indemnify its present and former directors and officers, among others, against judgments, penalties, fines, settlements and reasonable expenses actually incurred by them in connection with any proceeding to which they may be made a party by reason of their service in those or other capacities unless it is established that (a) the act or omission of the director or officer was material to the matter giving rise to the proceeding and (i) was committed in bad faith or (ii) was the result of active and deliberate dishonesty, (b) the director or officer actually received an improper personal benefit in money, property or services or (c) in the case of any criminal proceeding, the director or officer had reasonable cause to believe that the act or omission was unlawful. However, under Maryland law, a Maryland corporation may not indemnify for an adverse judgment in a suit by or in the right of the corporation or for a judgment of liability on the basis that personal benefit was improperly received, unless in either case a court orders indemnification and then only for expenses. In addition, Maryland law permits a corporation to advance reasonable expenses to a director or officer upon the corporation's receipt of (a) a written affirmation by the director or officer of his good faith belief that he has met the standard of conduct necessary for indemnification by the corporation and (b) a written undertaking by him or on his behalf to repay the amount paid or reimbursed by the corporation if it is ultimately determined that the standard of conduct was not met.

Insofar as indemnification for liabilities arising under the Securities Act of 1933 may be permitted to directors, officers or persons controlling the registrant pursuant to the foregoing provisions, the registrant has been informed that in the opinion of the Securities and Exchange Commission such indemnification is against public policy as expressed in the Act and is therefore unenforceable.

The Company has also agreed to indemnify our directors and executive officers to the maximum extent permitted by Maryland law, and pay such persons' expenses in defending any civil or criminal proceeding in advance of final disposition of such proceeding.

Item 35. Treatment of Proceeds From Stock Being Registered.

N/A

Item 36. Financial Statements and Exhibits.

(a) The following financial statements are being filed as part of this Registration Statement:

(1) Unaudited Consolidated Financial Statements of Arbor Realty Trust, Inc. and Subsidiaries

Consolidated Balance Sheet at September 30, 2003 (Unaudited)

Consolidated Statement of Operations for the Three Months Ended September 30, 2003 (Unaudited)

Consolidated Statement of Stockholders' Equity for the Three Months Ended September 30, 2003 (Unaudited)

Consolidated Statement of Cash Flow for the Three Months Ended September 30, 2003 (Unaudited)

Notes to Consolidated Financial Statements (Unaudited)

Schedule IV- Loans and Other Lending Investments (Unaudited)

(2) Consolidated Financial Statements of the Structured Finance Business of Arbor Commercial Mortgage, LLC and Subsidiaries

Report of Independent Certified Public Accountants

Consolidated Statements of Assets and Liabilities at December 31, 2002 and 2001 and at June 30, 2003 (Unaudited)

Consolidated Statements of Revenue and Direct Operating Expenses for the Years Ended December 31, 2002, 2001 and 2000, for the Six Months Ended June 30, 2003 (Unaudited) and for the Nine Months Ended September 30, 2002 (Unaudited)

Notes to Consolidated Financial Statements

(3) Financial Statements of Mezzobridge Funding LLC

Report of Independent Certified Public Accountants

Balance Sheet at December 31, 2000

Statement of Operations for the Year ended December 31, 2000

Statement of Members' Capital for the Year Ended December 31, 2000

Statement of Cash Flows for the Year Ended December 31, 2000

Notes to Financial Statements

(b) The following is a list of exhibits filed as part of this Registration Statement.

Exhibit Number	Description
2.1	Contribution Agreement, dated July 1, 2003, by and among Arbor Realty Trust, Inc., Arbor Commercial Mortgage, LLC and Arbor Realty Limited Partnership**
2.2	Guaranty, dated July 1, 2003, made by Arbor Commercial Mortgage, LLC and certain wholly-owned subsidiaries of Arbor Commercial Mortgage, LLC in favor of Arbor Realty Limited Partnership, ANMB Holdings, LLC and ANMB Holdings II, LLC**
2.3	Indemnity Agreement, dated July 1, 2003 by and among Arbor Realty Trust, Inc., Arbor Commercial Mortgage, LLC, Ivan Kaufman and Arbor Realty Limited Partnership
3.1	Articles of Incorporation of the Registrant
3.2	Articles Supplementary of the Registrant
3.3	Bylaws of the Registrant
4.1	Form of Certificate for Common Stock*
4.2	Form of Global Unit Certificate*
4.3	Form of Warrant Certificate (included as Exhibit A to Exhibit 4.4)
4.4	Warrant Agreement, dated July 1, 2003, between Arbor Realty Trust, Inc. and American Stock Transfer & Trust Company
4.5	Registration Rights Agreement, dated July 1, 2003, between Arbor Realty Trust, Inc. and JMP Securities LLC
5.1	Opinion of Venable LLP relating to the legality of the securities being registered*
8.1	Opinion of Skadden, Arps, Slate, Meagher & Flom LLP regarding tax matters*
10.1	Management Agreement, dated July 1, 2003, by and among Arbor Realty Trust, Inc., Arbor Commercial Mortgage, LLC and Arbor Realty Limited Partnership
10.2	Services Agreement, dated July 1, 2003, by and among Arbor Realty Trust, Inc., Arbor Commercial Mortgage, LLC and Arbor Realty Limited Partnership
10.3	Non-Competition Agreement, dated July 1, 2003, by and among Arbor Realty Trust, Inc., Arbor Realty Limited Partnership and Ivan Kaufman
10.4	Amended and Restated Agreement of Limited Partnership of Arbor Realty Limited Partnership, dated July 1, 2003, by and among Arbor Commercial Mortgage, LLC, Arbor Realty Limited Partnership, Arbor Realty LPOP, Inc. and Arbor Realty GPOP, Inc.
10.5	Warrant Agreement, dated July 1, 2003, between Arbor Realty Limited Partnership, Arbor Realty Trust, Inc. and Arbor Commercial Mortgage, LLC
10.6	Registration Rights Agreement, dated July 1, 2003, between Arbor Realty Trust, Inc. and Arbor Commercial Mortgage, LLC
10.7	Pairing Agreement, dated July 1, 2003, by and among Arbor Realty Trust, Inc., Arbor Commercial Mortgage, LLC Arbor Realty Limited Partnership, Arbor Realty LPOP, Inc. and Arbor Realty GPOP, Inc.
10.8	2003 Omnibus Stock Incentive Plan
10.9	Form of Restricted Stock Agreement
10.10	Benefits Participation Agreement, dated July 1, 2003, between Arbor Realty Trust, Inc. and Arbor Management, LLC
10.11	Form of Indemnification Agreement
21.1	Subsidiaries of the Registrant
23.1	Consent of Grant Thornton LLP

23.2	Consent of Venable LLP (contained in Exhibit 5.1)*
23.3	Consent of Skadden, Arps, Slate, Meagher & Flom LLP (contained in Exhibit 8.1)*
24.1	Powers of attorney (included in the signature page to this Registration Statement)

* To be filed by amendment.

** Portions of the exhibit have been omitted pursuant to a request for confidential treatment by Arbor Realty Trust, Inc.

(i) To file, during any period in which offers or sales are being made, a post-effective amendment to this registration statement:

(1) To include any prospectus required by Section 10(a)(3) of the Securities Act of 1933;

(2) To reflect in the prospectus any facts or events arising after the effective date of the registration statement (or the most recent post-effective amendment thereof) which, individually or in the aggregate, represent a fundamental change in the information set forth in the registration statement. Notwithstanding the foregoing, any increase or decrease in volume of securities offered (if the total dollar value of securities offered would not exceed that which was registered) and any deviation from the law or high end of the estimated maximum offering range may be reflected in the form of prospectus filed with the Commission pursuant to Rule 424(b) if, in the aggregate, the changes in volume and price represent no more than 20 percent change in the maximum aggregate offering price set forth in the "Calculation of Registration Fee" table in the effective registration statement.

(3) To include any material information with respect to the plan of distribution not previously disclosed in the registration statement or any material change to such information in the registration statement;

(ii) That, for the purpose of determining any liability under the Securities Act of 1933, each such post-effective amendment shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.

(iii) To remove from registration by means of a post-effective amendment any of the securities being registered which remain unsold at the termination of the offering.

(b) Insofar as indemnification for liabilities arising under the Securities Act of 1933 may be permitted to directors, officers and controlling persons of the registrant pursuant to the foregoing provisions, or otherwise, the registrant has been advised that in the opinion of the Securities and Exchange Commission such indemnification is against public policy as expressed in the Act and is, therefore, unenforceable. In the event that a claim for indemnification against such liabilities (other than the payment by the registrant of expenses incurred or paid by a director, officer or controlling person of the registrant in the successful defense of any action, suit or proceeding) is asserted by such director, officer or controlling person in connection with the securities being registered, the registrant will, unless in the opinion of its counsel the matter has been settled by controlling precedent, submit to a court of appropriate jurisdiction the question whether such indemnification by it is against public policy as expressed in the Act and will be governed by the final adjudication of such issue.

(c) The undersigned registrant hereby undertakes that:

(i) For purposes of determining any liability under the Securities Act of 1933, the information omitted from the form of prospectus filed as part of this registration statement in reliance upon Rule 430A and contained in a form of prospectus filed by the registrant pursuant to Rule 424(b)(1) or (4) or 497(h) under the Securities Act shall be deemed to be part of this registration statement as of the time it was declared effective.

(ii) for the purposes determining any liability under the Securities Act of 1933, each post-effective amendment that contains a form of prospectus shall be deemed to be a new

registration statement relating to the securities offered herein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.

SIGNATURES

Pursuant to the requirements of the Securities Act of 1933, the registrant certifies that it has reasonable grounds to believe that it meets all of the requirements for filing on Form S-11 and has duly caused this registration statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of New York, State of New York, on November 13, 2003.

ARBOR REALTY TRUST, INC.

By: /s/ Frederick C. Herbst

Name: Frederick C. Herbst
Title: Chief Financial Officer and Treasurer

Pursuant to the requirements of the Securities Act of 1933, this registration statement has been signed by the following persons in the capacities and on the dates indicated.

POWER OF ATTORNEY

EACH PERSON IN SO SIGNING, ALSO MAKES, CONSTITUTES AND APPOINTS FREDERICK C. HERBST, AND WALTER K. HORN AND EACH OF THEM ACTING ALONE, HIS TRUE AND LAWFUL ATTORNEY-IN-FACT, WITH FULL POWER OF SUBSTITUTION, TO EXECUTE AND CAUSE TO BE FILED WITH THE SECURITIES AND EXCHANGE COMMISSION PURSUANT TO THE REQUIREMENTS OF THE SECURITIES ACT, ANY AND ALL AMENDMENTS AND POST-EFFECTIVE AMENDMENTS TO THIS REGISTRATION STATEMENT, WITH EXHIBITS THERETO AND OTHER DOCUMENTS IN CONNECTION THEREWITH, AND ANY RELATED REGISTRATION STATEMENT AND ITS AMENDMENTS AND POST-EFFECTIVE AMENDMENTS FILED PURSUANT TO RULE 462(B) UNDER THE ACT, WITH EXHIBITS THERETO AND OTHER DOCUMENTS IN CONNECTION THEREWITH, AND HEREBY RATIFIES AND CONFIRMS ALL THAT SAID ATTORNEY-IN-FACT OR HIS SUBSTITUTE OR SUBSTITUTES MAY DO OR CAUSE TO BE DONE BY VIRTUE THEREOF.

Signature	Title	Date
/s/ Ivan Kaufman Ivan Kaufman	Chairman of the Board, Chief Executive Officer and President (Principal Executive officer)	November 6, 2003
/s/ Frederick C. Herbst Frederick C. Herbst	Chief Financial Officer and Treasurer (Principal Financial officer)	November 6, 2003
/s/ Jonathan A. Bernstein Jonathan A. Bernstein	Director	November 6, 2003
/s/ William Helmreich William Helmreich	Director	November 6, 2003
/s/ Walter K. Horn Walter K. Horn	Director	November 6, 2003
/s/ C. Michael Kojaian C. Michael Kojaian	Director	November 6, 2003
/s/ Melvin F. Lazar Melvin F. Lazar	Director	November 6, 2003
/s/ Joseph Martello Joseph Martello	Director	November 6, 2003

EXHIBIT INDEX

Exhibit Number	Description
2.1	Contribution Agreement, dated July 1, 2003, by and among Arbor Realty Trust, Inc., Arbor Commercial Mortgage, LLC and Arbor Realty Limited Partnership**
2.2	Guaranty, dated July 1, 2003, made by Arbor Commercial Mortgage, LLC and certain wholly-owned subsidiaries of Arbor Commercial Mortgage, LLC in favor of Arbor Realty Limited Partnership, ANMB Holdings, LLC and ANMB Holdings II, LLC**
2.3	Indemnity Agreement, dated July 1, 2003 by and among Arbor Realty Trust, Inc., Arbor Commercial Mortgage, LLC, Ivan Kaufman and Arbor Realty Limited Partnership
3.1	Articles of Incorporation of the Registrant
3.2	Articles Supplementary of the Registrant
3.3	Bylaws of the Registrant
4.1	Form of Certificate for Common Stock*
4.2	Form of Global Unit Certificate*
4.3	Form of Warrant Certificate (included as Exhibit A to Exhibit 4.4)
4.4	Warrant Agreement, dated July 1, 2003, between Arbor Realty Trust, Inc. and American Stock Transfer & Trust Company
4.5	Registration Rights Agreement, dated July 1, 2003, between Arbor Realty Trust, Inc. and JMP Securities LLC
5.1	Opinion of Venable LLP relating to the legality of the securities being registered*
8.1	Opinion of Skadden, Arps, Slate, Meagher & Flom LLP regarding tax matters*
10.1	Management Agreement, dated July 1, 2003, by and among Arbor Realty Trust, Inc., Arbor Commercial Mortgage, LLC and Arbor Realty Limited Partnership
10.2	Services Agreement, dated July 1, 2003, by and among Arbor Realty Trust, Inc., Arbor Commercial Mortgage, LLC and Arbor Realty Limited Partnership
10.3	Non-Competition Agreement, dated July 1, 2003, by and among Arbor Realty Trust, Inc., Arbor Realty Limited Partnership and Ivan Kaufman
10.4	Amended and Restated Agreement of Limited Partnership of Arbor Realty Limited Partnership, dated July 1, 2003, by and among Arbor Commercial Mortgage, LLC, Arbor Realty Limited Partnership, Arbor Realty LPOP, Inc. and Arbor Realty GPOP, Inc.
10.5	Warrant Agreement, dated July 1, 2003, between Arbor Realty Limited Partnership, Arbor Realty Trust, Inc. and Arbor Commercial Mortgage, LLC
10.6	Registration Rights Agreement, dated July 1, 2003, between Arbor Realty Trust, Inc. and Arbor Commercial Mortgage, LLC
10.7	Pairing Agreement, dated July 1, 2003, by and among Arbor Realty Trust, Inc., Arbor Commercial Mortgage, LLC Arbor Realty Limited Partnership, Arbor Realty LPOP, Inc. and Arbor Realty GPOP, Inc.
10.8	2003 Omnibus Stock Incentive Plan
10.9	Form of Restricted Stock Agreement
10.10	Benefits Participation Agreement, dated July 1, 2003, between Arbor Realty Trust, Inc. and Arbor Management, LLC
10.11	Form of Indemnification Agreement
21.1	Subsidiaries of the Registrant

23.1	Consent of Grant Thornton LLP
23.2	Consent of Venable LLP (contained in Exhibit 5.1)*
23.3	Consent of Skadden, Arps, Slate, Meagher & Flom LLP (contained in Exhibit 8.1)*
24.1	Powers of attorney (included in the signature page to this Registration Statement)

---

* To be filed by amendment.

** Portions of the exhibit have been omitted pursuant to a request for confidential treatment by Arbor Realty Trust, Inc.

EXHIBIT 2.1

CONTRIBUTION AGREEMENT

This CONTRIBUTION AGREEMENT (this "Agreement"), dated as of July 1, 2003, is by and among Arbor Commercial Mortgage, LLC, a New York limited liability company ("ACM"), Arbor Realty Trust, Inc., a Maryland corporation ("ART") and Arbor Realty Limited Partnership, a Delaware limited partnership ("ARLP").

W I T N E S S E T H:

WHEREAS, ACM owns (1) the bridge loans relating to commercial and multifamily properties listed on Schedule A-1 hereto (the "Bridge Loans"), (2) the mezzanine loans relating to commercial and multifamily properties listed on Schedule A-2 hereto (the "Mezzanine Loans"), (3) the loans relating to commercial and multifamily properties listed on Schedule A-3 hereto (the "Other Loans" and together with the Bridge Loans and the Mezzanine Loans, the "ACM Initial Assets"), (4) 100% of the membership interests of ANMB Holdings II, LLC (the "ANMB II Membership Interests") which owns the mezzanine loan relating to a multifamily property listed on Schedule A-4 hereto (the "Central Jersey Mezzanine Loan" and together with the ACM Initial Assets, the "Initial Assets"), and (5) 100% of the membership interests (the "Membership Interests") of the entities listed on Schedule B hereto (the "Preferred Equity Holders"), each of which have an equity interest, as listed on Schedule C hereto, in entities owning commercial or multifamily properties (the "Preferred Equity Interests");

WHEREAS, ACM desires to contribute all of the ACM Initial Assets, the ANMB II Membership Interests and the Membership Interests (together, the "Contributed Assets") to ARLP in exchange for 3,146,724 units of limited partnership interest in ARLP (the "Partnership Units") and 629,345 warrants, each of which entitles ACM to purchase an additional Partnership Unit (the "Warrants");

WHEREAS, ARLP desires to issue the Partnership Units and the Warrants to ACM in exchange for the Contributed Assets; and

WHEREAS, ART will contribute the net proceeds of an offering of its units, each of which consists of five shares of common stock of ART (the "Common Stock") and a warrant to purchase an additional share of Common Stock (the "Units"), pursuant to the Offering Memorandum, dated June 26, 2003, to Arbor

The material marked [*] has been omitted pursuant to a request for confidential treatment by Arbor Realty Trust, Inc. and has been filed separately with the Securities and Exchange Commission.

Realty GPOP, Inc., a Delaware corporation and a wholly owned subsidiary of ART ("GPOP"), and Arbor Realty LPOP, Inc., a Delaware corporation and a wholly owned subsidiary of ART ("LPOP"); and

WHEREAS, each of GPOP and LPOP will contribute the net proceeds its receives from ART to ARLP in exchange for units of limited partnership interest in ARLP, concurrently with ACM's contribution of the Contributed Assets.

NOW, THEREFORE, in consideration for the foregoing and other good and valuable consideration, the receipt of which is hereby acknowledged, the parties hereto agree as follows:

1. Contribution of the Contributed Assets. On the terms and subject to the conditions of this Agreement, ACM shall transfer, assign, convey and deliver to ARLP all right, title and interest in and to the Contributed Assets and ARLP shall issue the Partnership Units and the Warrants to ACM.

2. Conditions.

a. The obligation of ARLP to issue the Partnership Units and the Warrants to ACM in exchange for the Contributed Assets is subject to the

following conditions (which may be waived by ARLP in ARLP's sole discretion): (i) that at the time of the Closing referred to in Section 3, each of the representations and warranties of ACM made in this Agreement shall be true and correct, (ii) ACM shall have executed and delivered, and, if applicable, caused to be delivered, to ARLP an assignment, substantially in the form of Exhibit A (the "Assignment and Assumption") and such assignments and other instruments of conveyance, assignment and transfer, all in form satisfactory to ARLP, as shall be effective to vest in ARLP good title in and to the Contributed Assets, (iii) all approvals and consents to the transactions contemplated by this Agreement shall have been obtained from all necessary third parties, and (iv) to the best of ACM's knowledge, there shall be no material pending or threatened litigation regarding the Contributed Assets.

b. The obligation of ACM to contribute the Contributed Assets to ARLP for the Partnership Units and the Warrants is subject to the following conditions (which may be waived by ACM in ACM's sole discretion): (i) that at the time of the Closing each of the representations and warranties of ARLP made in this Agreement shall be true and correct, and (ii) ARLP shall have executed and delivered to ACM the Assignment and Assumption.

3. Closing. The closing (the "Closing") of the transfer of the Contributed Assets, the Partnership Units and the Warrants shall be held, at such time and place as the parties may mutually agree upon, on July 1, 2003.

a. ACM shall deliver to ARLP at the Closing (i) the Assignment and Assumption, (ii) with respect to each ACM Initial Asset, an endorsement by ACM of the related promissory note or notes, without recourse, to ARLP, or its designee, (iii) with respect to ACM's 100% membership interest in ANMB Holdings II, LLC ("ANMB II"), the operating agreement evidencing the equity interest of ANMB II in the entity owning the underlying property and an instrument of assignment effecting the transfer of such membership interests, and (iv) with respect to each of ACM's 100% Membership Interests in Preferred Equity Holders, the operating agreement evidencing the equity interest of the applicable Preferred Equity Holder in the entity owning the underlying property and an instrument of assignment effecting the transfer of the Membership Interests, and (v) such other instruments of transfer executed by ACM as ARLP shall reasonably request, provided that ARLP shall prepare any such instruments and deliver the same to ACM at Closing.

b. ARLP shall deliver to ACM (i) a certificate or other documentation evidencing 3,146,724 of its Partnership Units and (ii) a certificate or other documentation evidencing 629,345 Warrants.

4. Representations and Warranties of ACM.

a. ACM hereby represents and warrants to ARLP and ART, as follows:

i. ACM is a limited liability company duly organized, validly existing and in good standing under the laws of the State of New York;

ii. ACM has the full power and authority to enter into and consummate all transactions contemplated by this Agreement, has duly authorized the execution, delivery and performance of this Agreement, and has duly executed and delivered this Agreement;

iii. This Agreement, assuming due authorization, execution and delivery by ARLP and ART, constitutes a valid, legal and binding obligation of ACM, enforceable against ACM in accordance with the terms hereof, subject to (A) applicable bankruptcy insolvency, reorganization, moratorium and other laws affecting the enforcement of creditors' rights generally, (B) general principles of equity, regardless of whether such enforcement is considered in a proceeding in equity or at law and (C) public

policy considerations underlying the securities laws, to the extent that such public policy considerations limit the enforceability of the provisions of this Agreement that purport to provide indemnification for securities laws liabilities;

iv. The execution and delivery by ACM of this Agreement and its performance of, and compliance with, the terms of this Agreement will not conflict with or constitute a breach, violation, or default under (A) its certificate of formation or operating agreement, (B) any law, any order or decree of any court or arbiter, or any order, regulation or demand of any federal, state or local government or regulatory authority, which violation is likely to affect materially and adversely either the ability of ACM to perform its obligations under this Agreement or the financial condition of ACM or (C) any indenture, loan or credit agreement, or any other agreement, contract, instrument, mortgage, lien, lease, permit, authorization, order, writ, judgment, injunction or decree to which ACM is a party or by which any Contributed Asset is bound or affected, except for such conflicts with (1) certain provisions of (a) the operating agreement of ACM, dated as of January 1, 2003, and (b) the operating agreement of the sole managing member of ACM, Arbor Management, LLC, each of which have been validly waived by each of the members thereto, (2) (a) the First Amended and Restated Warehousing Credit, Term Loan and Security Agreement (Structured Facility and Servicing Secured Facility), dated as of April 1, 2003 (the "Warehousing Credit Facility"), by and between [*] and ACM, (b) the Master Repurchase Agreement, dated as of November 18, 2002 (the "[*] Repurchase Agreement"), by and between [*] and ACM, and (c) the Master Repurchase Agreement, dated as of November 1, 2002 (the "[*] Repurchase Agreement"), by and between [*] and ACM, for which each of [*], respectively, have consented to the transactions contemplated by this Agreement and (3) the Recognition Agreement, dated as of November 14, 2001, by and between Fremont Investors and Loan ("Fremont") and ACM, for which Fremont has given its consent with further assurances to the transactions contemplated by this Agreement; the consummation of the transactions contemplated by this Agreement will not result in the cancellation, modification or termination of, or the acceleration of, or the creation of any charges, claims, conditions, security interests, hypothecations, encumbrances, mortgages, liens or pledges (collectively, "Liens") on the Contributed Assets pursuant to any agreement, license, lease understanding, contract, indenture, mortgage, instrument, promise, undertaking or other commitment or obligation ("Contracts") under which ACM or any Contributed Asset subject to or bound, except for (x) the termination of the Liens

The material marked [*] has been omitted pursuant to a request for confidential treatment by Arbor Realty Trust, Inc. and has been filed separately with the Securities and Exchange Commission.

of [*] pursuant to the Warehousing Credit Facility, the [*] Repurchase Agreement and the [*] Repurchase Agreement, respectively, on the Contributed Assets and (y) the creation of the Liens of [*] on the Contributed Assets by the execution of the (i) Assignment and Assumption Agreement, to be dated as of July 1, 2003, by and between ACM and ARLP with respect to the [*], (ii) Structured Facility Warehousing Credit and Security Agreement, to be dated as of July 1, 2003, by and between [*] and ARLP, and (iii) the Master Repurchase Agreement, to be dated as of July 1, 2003, by and between [*] and ARLP, respectively;

v. In selecting the ACM Initial Assets, the ANMB II Membership Interests and the Membership Interests for pledge pursuant hereto, no selection procedure was employed by ACM that was intended to adversely affect the interests of ARLP;

vi. Except as disclosed by ACM to ARLP and ART in writing and accepted in writing by ARLP and ART, ACM has not dealt with any person that may be entitled to any commission or compensation in connection with the transfer of the Contributed Assets. ACM or Obligor has paid any and all amounts due to any such person, and ARLP shall have no responsibility for any payments due any such person;

vii. There are no Contracts, and ACM will not enter into Contracts, with any other person or entity to sell, transfer, assign or in any manner

create a Lien on, the Contributed Assets, except for the right, title, interest, lien and security interest of (A) [*] under the Warehousing Credit Facility, (B) [*] under the [*] Repurchase Agreement, (C) [*] under the [*] Repurchase Agreement, or to not sell, transfer or assign the Contributed Assets to ARLP;

viii. No consents, other than those that have been obtained or obtained with further assurances, are required for the transfer of the Contributed Assets in accordance with the terms of this Agreement; and

The material marked [*] has been omitted pursuant to a request for confidential treatment by Arbor Realty Trust, Inc. and has been filed separately with the Securities and Exchange Commission.

ix. Each Contributed Asset was created in accordance with, and complies with the requirements of, the internal procedures of ACM, including, without limitation, ACM's underwriting policies procedures and standards.

b. With respect to the Bridge Loans listed on Schedule A-1 hereto (except for the 1025 5th Avenue Bridge Loan), the Mezzanine Loans listed on Schedule A-2 hereto, the Albion Loan (as defined on Schedule A-3 hereto) and the Central Jersey Mezzanine Loan, ACM represents and warrants to ART and ARLP that:

i. ACM is in possession of a file relating to each of the Initial Assets which contains (1) each of the documents required to evidence ACM's interest in the Initial Asset (including all promissory notes, security agreements, guarantees and other agreements that evidence or secure such Initial Assets) and (2) when applicable, certain other documents relating to the underlying property (the "Initial Asset File");

ii. Immediately prior to the assignment of each Contributed Asset to ARLP, ACM was the sole legal, beneficial and equitable owner of each Contributed Asset, except for the right, title, interest, lien and security interest of (A)[*] under the Warehousing Credit Facility, (B)[*] under the [*] Repurchase Agreement, (C)[*] under the [*] Repurchase Agreement; and ACM transferred each Contributed Asset to ARLP free and clear of any Lien, except for the Liens described in this Section 4(b)(ii); in the event that ARLP's interest in a Bridge Loan is deemed to be a security interest, such security interest is valid, perfected and of first priority; in the event that ARLP's interest in a Mezzanine Loan is deemed to be a security interest, such security interest is valid, perfected and is a first priority lien on the pledged ownership interest related to the Mezzanine Loan;

iii. Neither the notes relating to the Initial Assets (the "Initial Asset Notes") nor the Initial Assets are subject to any right of rescission, set-off, counterclaim or defense, including the defense of usury, nor will the operation of any term of the Initial Asset Notes or the Initial Assets, nor the exercise of any right thereunder, render the Initial Asset Notes or Initial Assets unenforceable, in whole or in part, except to the extent enforcement may be limited by (A) applicable bankruptcy, insolvency, and other similar laws affecting creditor's rights generally, or (B) general equitable principals, regardless of whether the issue of enforceability is considered in a proceeding in equity or at law, or subject to any right of rescission, set-off, counterclaim or

The material marked [*] has been omitted pursuant to a request for confidential treatment by Arbor Realty Trust, Inc. and has been filed separately with the Securities and Exchange Commission.

defense, including the defense of usury and no such right of rescission, set-off, counterclaim or defense has been asserted;

iv. Up to and including the Closing, all payments required to be made with respect to an Initial Asset under the terms of the related Initial Asset Note have been made before the end of any grace or cure period for such payment. ACM has not advanced funds, or induced, solicited or received any advance of funds from a party other than the obligor on the related Initial Asset Note (the "Obligor"), directly or indirectly,

for the payment of any amount required by the Initial Asset Note. There has been no delinquency beyond the end of any applicable period of grace in any payment by the Obligor under the terms of any Initial Asset Note;

v. The Initial Asset Note relating to each Initial Asset has been endorsed to ARLP in a form and in a manner sufficient to convey to ARLP all right, title and interest therein of ACM in all relevant jurisdictions, except to the extent that a recording or other filing is required to transfer such Initial Asset;

vi. To the best of ACM's knowledge, based upon an opinion of Obligor's counsel, each Initial Asset at origination did not violate any applicable federal, state or local law;

vii. With respect to each Initial Asset that relates to a property that is secured by a mortgage in favor of ACM (each a "Mortgaged Property"), a title insurance policy insuring the lien created by such mortgage was effective on the date of ACM's financing of such Initial Asset, such policy is valid and remains in full force and effect, and, to the best of ACM's knowledge each such policy was issued by a title insurer qualified to do business in the jurisdiction where the applicable Mortgaged Property is located, which policy insures either ACM or the original holder of the Initial Asset as to the Lien of the Initial Asset; no claims have been made under such title insurance policy and no prior holder of the applicable Initial Asset, including ACM, has done, by act or omission, anything that would impair the coverage of such title insurance policy;

viii. To the best of ACM's knowledge based upon its review of the related title insurance policy, each mortgage related to a Mortgaged Property (A) is properly recorded (or, if the mortgage related to such Mortgaged Property was created within 30 days prior to the date of this Agreement and is not yet recorded, the mortgage relating to such Mortgaged Property has been submitted for recording, is in form and substance acceptable for recording and, when properly recorded, will be sufficient under the laws of the jurisdiction wherein the Mortgaged Property is located to reflect record of the Lien of such Mortgaged Property) and the mortgage relating to the Mortgaged Property is a valid, continuing and enforceable lien (subject only to the matters

described in the next sentence) on the Mortgaged Property, including all improvements on the Mortgaged Property owned by the Obligor, all other fixtures on the Mortgaged Property owned by the Obligor and all additions, alterations and replacements made at any time with respect to the foregoing, and (B) provides for an assignment of leases and rents from the Mortgaged Property, or, if the related Initial Asset does not so provide, a separate assignment of mortgage was executed by the Obligor, was properly recorded (or, if such mortgage was created within 30 days prior to the date this Agreement and is not yet recorded, such mortgage has been submitted for recording, is in form and substance acceptable for recording and, when properly recorded, will be sufficient under the laws of the jurisdiction wherein the Mortgaged Property is located to reflect record of the Lien of such assignment) and creates a valid, existing and enforceable lien and security interest on the leases and rents from the related Mortgaged Property and other property described therein. The Lien on each Mortgaged Property is subject only to (1) the Lien of current real property taxes not yet due and payable, (2) covenants, conditions and restrictions, rights of way, easements and other matters of public record as of the date of recording that are acceptable to mortgage lending institutions generally, are specifically referred to in lender's title insurance policy delivered to ACM and are taken into account in determining, or do not materially adversely affect, the appraisal value of the Mortgaged Property, and (3) other matters to which like properties are commonly subject that do not materially interfere with the benefits of the security intended to be provided by such Initial Asset or the use, enjoyment, value or marketability of the related Mortgaged Property;

ix. In the case of a Mortgaged Property, the security agreement, chattel mortgage or equivalent document delivered in connection with the Mortgaged Property establishes and creates a valid, continuing and

enforceable Lien and security interest in all furniture, fixtures and equipment on or used in connection with the related Mortgaged Property and other property described therein. Either a Uniform Commercial Code financing statement has been filed and/or recorded in all places necessary to perfect a valid security interest in the personal property subject to the Lien of the Mortgaged Property or any separate security agreement, chattel mortgage or equivalent document or, in the case of a Mortgaged Property created within 30 days prior to the date of this Agreement, ACM has a right to file a Uniform Commercial Code financing statement with respect to the personal property subject to the Lien of such Mortgaged Property or any separate security agreement, chattel mortgage or equivalent document and upon such recordation and/or filing thereof in all necessary places, ACM will have a perfected and valid security interest in such personal property;

x. There are no delinquent taxes or assessment liens against any Mortgaged Property;

xi. There are no mechanics' liens or initiation of a mechanics' lien affecting any Mortgaged Property, except those (A) that are insured against by a title insurance policy, (B) that are subordinate to the Lien of the related Initial Asset, if applicable or (C) the payments required for such work, labor or materials are not yet due and payable, or if due and payable and unpaid are the subject of a good faith contest;

xii. To the best of ACM's knowledge based on the appraisal or engineering report produced at the origination of the Initial Asset, except to the extent that it was contemplated at the time of the origination of the Initial Asset that repairs, restorations and improvements would be made to the underlying property, each related property is in good repair and free of structural defects, damage, waste and defects in any mechanical, electrical, plumbing and safety systems therein that would materially and adversely affect the value of such related property, and there is no proceeding pending for the total or partial condemnation thereof. Except to the extent that it was contemplated at the time of the origination of the Initial Asset that repairs, renovations and improvements would be made to the building system and the related property, as applicable all building systems are in good working order subject to ordinary wear and tear. ACM inspected the related property in connection with the origination of the related to the Initial Assets;

xiii. There is no material default, breach, violation or event of acceleration existing under the Initial Asset or the Initial Asset Note and no event that, with the passage of time, or with notice and the expiration of any grace or cure period, would constitute a material default, breach, violation or event of acceleration thereunder;

xiv. Each Initial Asset and related Initial Asset Note is the legal, valid and binding obligation of the maker thereof, enforceable in accordance with its terms, subject to (A) applicable bankruptcy, insolvency, reorganization, moratorium and other laws affecting the enforcement of creditors' rights generally, and (B) general principles of equity, regardless of whether such enforcement is considered in a proceeding in equity or at law. All parties to each Initial Asset had legal capacity to execute such Initial Asset and related Initial Asset Note, and each Initial Asset has been duly and properly executed by such parties and constitutes a legal, valid and binding obligation of each party thereto, subject to (A) applicable bankruptcy, insolvency, reorganization, moratorium and other laws affecting the enforcement of creditors' rights generally, and (B) general principles of equity, regardless of whether such enforcement is considered in a proceeding in equity or at law;

xv. Each Initial Asset contains customary and enforceable provisions that render the rights and remedies of the holder thereof adequate for the practical realization

against the applicable collateral securing the Initial Asset (the "Collateral") of the benefits of the security intended to be provided

thereby;

xvi. With respect to each Initial Asset constituting a deed of trust, a trustee, duly qualified under applicable law to serve as such, has been properly designated and currently so serves and is named in such Initial Asset, and no fees or expenses are or will become payable to the trustee under the deed of trust, except in connection with a trustee's sale after default by the Obligor;

xvii. The improvements upon each property related to an Initial Asset are covered by a valid and existing hazard insurance policy with a generally acceptable carrier, which policy provides for fire, extended coverage and such other hazards as are customary in the area where the property related to an Initial Asset is located representing coverage not less than the outstanding principal balance of the related Initial Asset or the minimum amount required to compensate for damage or loss of the improvements thereon on a replacement cost basis, whichever is less. Such insurance policies contain a standard mortgagee clause naming, in the case of an Initial Asset, ACM and its successors in interest as mortgagee, and ACM has received no notice that any premiums due and payable thereon have not been paid; the related Initial Asset obligates the Obligor to maintain all such insurance at the Obligor's cost and expense, and upon the Obligor's failure to do so, authorizes the holder of such Initial Asset to obtain and maintain such insurance at the Obligor's cost and expense and to seek reimbursement therefor from the Obligor;

xviii. If a property related to an Initial Asset is in an area identified in the Federal Register by the Federal Emergency Management Agency as having special flood hazards and if required by law, a flood insurance policy in a form meeting the requirements of the current guidelines of the Flood Insurance Administration is in effect with respect to such property with a generally acceptable carrier in an amount representing coverage not less than the least of (A) the outstanding principal balance of the related Initial Asset, (B) the minimum amount required to compensate for damages or loss on a replacement cost basis or (C) the maximum amount of insurance that is available under the Flood Disaster Protection Act of 1973;

xix. When applicable, the Initial Asset File contains an appraisal of the property relating to the Initial Asset made and signed, prior to the approval of the application for the Initial Asset, by an appraiser, duly appointed by ACM, who had no interest, direct or indirect, in the property or in any Initial Asset made by the approval or disapproval of the Initial Asset, who, based on a review of the appraisal, was state-licensed or state certified (if required under the laws of the state in which the related property is located) at the time the appraisal was conducted and signed, who, to the knowledge

of ACM, is a member of and has a professional designation from a nationally recognized appraisal organization. Such appraisal states that the appraiser examined the property;

xx. To the best of ACM's knowledge, no material misrepresentation, fraud or similar occurrence with respect to an Initial Asset has taken place on the part of any person involved in the origination of the Initial Asset or in the application of any insurance in relation to such Initial Asset;

xxi. To the best of ACM's knowledge, if one or more commercial tenants lease a portion of a property related to a Initial Asset, each such tenant is conducting business only in that portion of such property covered by its space lease, except where improvements are being made to such space, all tenant improvements to be completed by Obligor under a lease have been completed, and the payment of rent under each lease has commenced. To the best of ACM's knowledge, no residential space lease, occupancy agreement or license agreement contains an option to purchase, right of first refusal to purchase, or any other similar provision that adversely affects the Initial Asset or that might adversely affect the rights of ARLP. Except as set forth on Schedule 4(b)(xxi) hereto, no commercial space lease, occupancy agreement or license agreement contains an option to purchase, right of first refusal to purchase, or any other similar provision that adversely

affects the Initial Asset or that might adversely affect the rights of ARLP. To ACM's actual knowledge, each property related to an Initial Asset is not subject to any lease other than the space leases described in the rent roll related to the Initial Asset, and no person has any possessory interest in, or right to occupy, such property except under and pursuant to such a space lease. Each such material space lease, occupancy agreement or license agreement is subordinate to the Initial Asset either pursuant to its terms or a recorded subordination agreement and contains a customary provision for termination for cause;

xxii. To the best of ACM's knowledge, each property related to an Initial Asset is in all material respects in material compliance with and lawfully used, operated and occupied under applicable zoning and building laws or regulations, and ACM has not received notification from any governmental authority that any such property fails to comply with such laws or regulations, is being used, operated or occupied unlawfully or has failed to obtain or maintain any inspection, license or certificates material to the operation of such property;

xxiii. To the best of ACM's knowledge, all material inspections, licenses and certificates required to be made or issued with respect to all occupied portions of the property related to an Initial Asset, with respect to the use and occupancy of the same,

including, but not limited to, certificates of occupancy and fire underwriting certificates, have been made or obtained from the appropriate authorities and the property is lawfully occupied under applicable law;

xxiv. All of the material improvements that were included for the purpose of determining the appraisal value of a Mortgaged Property lie wholly within the boundaries and building restriction lines of such property, and no significant improvements on adjoining properties encroach upon the Mortgaged Property;

xxv. When applicable, the related Initial Asset File contains a report (the "Assessment Report") of an environmental assessment made with respect to each property related to an Initial Asset by an independent qualified environmental professional who had no interest, direct or indirect, in such property or in any Initial Asset secured thereby, and whose compensation was not affected by the approval or disapproval of the Initial Asset. To the best of ACM's knowledge and except as disclosed in the Assessment Report in the Initial Asset File, each related property is in material compliance with all environmental laws, ordinances, rules, regulations and orders of federal, state or governmental authorities relating thereto.

xxvi. To the best of ACM's knowledge and except as disclosed in the Assessment Report in the Initial Asset File, each related property of an Initial Asset is free from contamination from any hazardous materials and no hazardous materials have been used, stored or otherwise handled in any manner on, in from or affecting any related property except in compliance with all environmental laws. Neither ACM nor, to the best knowledge of ACM, any Obligor has received notification from any federal, state or other governmental authority relating to any hazardous materials on or affecting the related property or to any potential or known liability under any environmental law arising from the ownership or operation of a related property. For the purposes of this subsection, the term "hazardous materials" shall include, without limitation, gasoline, petroleum products, explosives, radioactive materials, polychlorinated biphenyls or related or similar materials, asbestos or any material containing asbestos, lead, lead-based paint, area formaldehyde insulation and any other substance or material as may be defined as a hazardous or toxic substance by any federal, state or local environmental law, ordinance, rule, regulation or order, including, without limitation, the Comprehensive Environmental Response, Compensation, and Liability Act, the Clean Air Act, the Clean Water Act, the Resource Conservation and Recovery Act, the Toxic Substances Control Act and any regulations promulgated pursuant thereto;

xxvii. To the best of ACM's knowledge, there are no actions, suits or proceedings before any court, administrative agency or arbitrator

concerning an Initial Asset or the

related Collateral that might materially and adversely affect (1) title to such Initial Asset, (2) the validity or enforceability thereof, (3) the value of the Collateral as security for the Initial Asset or (4) the marketability of such Collateral;

xxviii. Except for Partners Portfolio Mezzanine Loan (as defined on Schedule A-2 hereto), none of the Initial Assets is cross-collateralized with any Initial Asset other than another Initial Asset;

xxix. Each Initial Asset does not by its terms permit the repayment thereof for an amount less than the outstanding principal balance thereof plus accrued interest;

xxx. No Obligor is, to ACM's actual knowledge, a debtor in any state or federal bankruptcy or insolvency proceeding;

xxxi. With respect to each Initial Asset that is a Mezzanine Loan:

(1) The first mortgage related to the Initial Asset permits such Mezzanine Loan and the related first mortgage lender has consented to the rights of the lender under the Mezzanine Loan, if such consent is required to be obtained pursuant to the documents securing the loan;

(2) With the exception of 333 East 34th Street Mezzanine Loan and Partners Portfolio Mezzanine Loan (each as defined on Schedule A-2 hereto), each Mezzanine Loan is directly secured by the pledge (the "Pledge Agreement") of all of the equity interest in the related Obligor. Each Pledge Agreement has been duly authorized, executed and delivered by each of the parties thereto and is a legal, valid and binding obligation of each of the parties thereto, subject to (A) applicable bankruptcy, insolvency, reorganization, moratorium and other laws affecting the enforcement of creditors' rights generally and (B) general principles of equity, regardless of whether such enforcement is considered a proceeding in equity or at law; and

(3) Each related Pledge Agreement creates a valid, first priority security interest in the entire equity interest in the related mortgagor.

xxxii. With respect to each Preferred Equity Holder:

(1) Each Preferred Equity Holder is duly formed, validity existing and in good standing under the laws of their respective jurisdiction of formation;

(2) Each Preferred Equity Interest owned by each Preferred Equity Holder is owned by such Preferred Equity Holder free and clear of any and all Liens, except for the right, title, interest, lien and security interest of (A) [*]

The material marked [*] has been omitted pursuant to a request for confidential treatment by Arbor Realty Trust, Inc. and has been filed separately with the Securities and Exchange Commission.

under the Warehousing Credit Facility, (B) [*] under the [*] Repurchase Agreement, and (C) [*] under the [*] Repurchase Agreement; and

(3) Each Preferred Equity Holder is entitled to receive preferred distributions under and in accordance with the terms of the operating agreement for the entity in which such Preferred Equity Holder holds such Preferred Equity Interest.

xxxiii. No Preferred Equity Holder has (A) made a general assignment for the benefit of creditors, (B) filed any voluntary petition in bankruptcy or suffered the filing of any involuntary petition by its creditors, (C) suffered the appointment of a receiver to take possession of all, or substantially all, of its assets, (D) suffered the attachment or other judicial seizure of all, or substantially all, of its assets, (E) admitted in writing its inability to pay its debts as they come due, or (F) made an offer of settlement, extension or composition to its

creditors generally.

xxxiv. Each Preferred Equity Holder and each entity controlled directly or indirectly by a Preferred Equity Holder (collectively the "Entities") is, and at all times during its existence has been, a partnership or limited liability company classified as a partnership (rather than an association or a publicly traded partnership taxable as a corporation) for federal income tax purposes, except for any Entity with respect to which an election to be treated as a taxable REIT subsidiary ("TRS") has been or will be made effective for all periods following the Closing, or which has been or will be contributed to a TRS. To the best of ACM's knowledge, each Entity has timely, including extensions, filed all material tax returns required to be filed by it and has timely, including extensions, paid all material taxes required to be paid by it and none of the tax returns filed by any of the Entities is the subject of a pending or ongoing audit, and no federal, state, location or foreign taxing authority has asserted any material tax deficiency or other assessment in writing against any Entity or any property of any Entity.

5. Representations and Warranties of ARLP. ARLP hereby represents and warrants to ACM as follows:

a. ARLP is duly organized, validly existing and in good standing under the laws of the State of Delaware;

The material marked [*] has been omitted pursuant to a request for confidential treatment by Arbor Realty Trust, Inc. and has been filed separately with the Securities and Exchange Commission.

b. ARLP has the full power and authority to enter into and consummate all transactions contemplated by this Agreement, has duly authorized the execution, delivery and performance of this Agreement and has duly executed and delivered this Agreement;

c. This Agreement, assuming due authorization, execution and delivery by ACM, constitutes a valid, legal and binding obligation of ARLP, enforceable against ARLP in accordance with the terms hereof, subject to (A) applicable bankruptcy, insolvency, reorganization, moratorium and other laws affecting the enforcement of creditors' rights generally, (B) general principles of equity, regardless of whether such enforcement is considered in a proceeding in equity or at law and (C) public policy considerations underlying the securities laws, to the extent that such public policy considerations limit the enforceability of the provisions of this Agreement that purport to provide indemnification for securities laws liabilities; and

d. ARLP is not in violation of, and its execution and delivery of this Agreement and its performance of, and compliance with, the terms of this Agreement will not constitute a violation of, any law, any order or decree of any court or arbiter, or any order, regulation or demand of any federal, state or local governmental or regulatory authority, which violation, in ARLP 's good faith and reasonable judgment, is likely to affect materially and adversely either the ability of ARLP to perform its obligations under this Agreement or the financial condition of ARLP.

6. Investment Representations and Warranties. ACM hereby represents and warrants to ART and ARLP as follows:

a. The Partnership Units and the Warrants to be acquired by ACM are being acquired for ACM's own account with the present intention of holding such interests for purposes of investment, and ACM has no intention of selling such interests in a public distribution, and the Partnership Units and the Warrants will not be disposed of in contravention of the Securities Act of 1933, as amended (the "Act"), or any applicable state securities laws. No other person will have any direct or indirect (other than through the ownership of a direct or indirect interest in ACM) beneficial interest in or right to the Partnership Units or Warrants purchased hereunder;

b. ACM understands that the Partnership Units and Warrants have not been registered under the Act or any state securities laws by reason of specific exemptions under the provisions thereof, the availability of

which depend in part upon the bona fide nature of ACM's investment intent and upon the accuracy of ACM's representations made in this Section 6. ACM understands that the Partnership Units and the Warrants have not been approved or disapproved by the Securities and Exchange Commission or by any other federal or state agency. ACM understands that ARLP is relying upon the

representations and agreements contained in this Section 6 for the purpose of determining whether this transaction meets the requirements for such exemptions under the Act and any state securities laws;

c. ACM understands that the Partnership Units and Warrants are "restricted securities" under the applicable federal securities laws and that the Securities Act and the rules of the Securities and Exchange Commission provide in substance that ACM may dispose of the Partnership Units and the Warrants only pursuant to an effective registration statement under the Securities Act or an exemption therefrom, and ACM understands that ARLP has no current obligation or intention to register the Partnership Units or the Warrants. ACM also understands that no public market exists for any of the securities issued by ARLP and that ARLP has no obligation to ensure that a broad public market will exist for securities of ARLP. Accordingly, ACM understands that under the rules of the Securities and Exchange Commission, ACM may only dispose of the Partnership Units and the Warrants in transactions that are exempt from registration under the Act. As a consequence of all of the foregoing, ACM understands that it must bear the economic risk of the investment in the Partnership Units and the Warrants for an indefinite period of time;

d. ACM is an "accredited investor "as that term is defined in Rule 501(a) under the Act. ACM was not formed solely for making an investment in the Partnership Units or Warrants. ACM acknowledges that an investment in the Partnership Units and the Warrants is not recommended for investors who have any need for a current return on this investment or who cannot bear the risk of losing their entire investment. ACM acknowledges that: (i) it has adequate means of providing for its current needs and has no need for liquidity in this investment; (ii) it is able to bear the economic risk of this investment; (iii) it is able to hold the Partnership Units and the Warrants indefinitely; and (iv) it is able to afford a complete loss of this investment;

e. ACM either (i) has a preexisting personal or business relationship with ARLP or (ii) by reason of its business or financial experience, or by reason of the business or financial experience of its financial advisor who is unaffiliated with and who is not compensated, directly or indirectly, by ARLP or any affiliate or selling agent of ARLP, ACM is capable of evaluating the risks and merits of an investment in the Partnership Units and the Warrants and of protecting its own interests in connection with the investment and investment commitment pursuant to this Agreement; and

f. ACM has been given the opportunity to perform its own due diligence, investigation of the business, operations, assets, liabilities and financial condition of ARLP, including access to the records and books of ARLP. ACM has had an opportunity to

ask questions of and receive answers from ARLP concerning the business and assets of ARLP in a manner deemed appropriate by ACM.

7. Survival of Representations, Warranties and Covenants. All representations, warranties and covenants contained in this Agreement shall survive the Closing. Upon discovery by any of the parties hereto of a breach of any of the representations and warranties set forth in Sections 4, 5 and 6 that materially and adversely affects the interests of the other parties hereto, the party discovering such breach shall give prompt written notice to the other party hereto.

8. Indemnity.

a. ACM hereby agrees to indemnify and hold ART and ARLP harmless from and against any and all damage, expense, loss, cost, claim or liability

(each a "Claim") suffered or incurred by ART and ARLP as a result of any untruth or inaccuracy in any of the representations or warranties made by ACM in Sections 4 and 6 of this Agreement;

b. Scope of Indemnity. Notwithstanding anything to the contrary otherwise provided in this Agreement:

i. No indemnity shall be available under Section 8(a) until the indemnifiable Claims against ACM exceed the total amount of $200,000, except in the case of Claims arising under breaches of any representations or warranties in Section 4(a)(ii), Section 4(b)(ii), Section 4(b)(x), Section 4(b)(xxxii), Section 4(b)(xxxiv) or Section 6 (for purposes of determining whether the $200,000 threshold amount has been met, any qualification or limitation of a representation or warranty by reference to the materiality of matters stated herein having or not having a material adverse effect or words of similar effect shall be disregarded);

ii. Except in the case of fraud, the indemnification set forth in Section 8(a) shall be limited to an amount equal to the value of the Partnership Units received by ACM on the date hereof;

iii. The indemnification set forth in Section 8(a) shall only extend to any Claim of which written notice has been given within twelve months following the Closing, except with respect to Claims arising under (A) Section 4(b)(xxv) and Section 4(b)(xxvi), for which written notice has been given within thirty-six months following the Closing, (B) Section 4(b)(x) and Section 4(b)(xxxiv), for which written notice has been given within the applicable statute of limitations following the Closing, and (C) Section 4b(ii), Section 4(b)(xxxii) and Section 6; and

c. Notice to ACM. Each of ART and ARLP shall give prompt written notice to ACM as to the assertion of any Claim, or the commencement of any Claim. The omission of either of ART or ARLP to notify ACM of any such Claim shall not relieve ACM from any liability in respect of such Claim that it may have to either of ART or ARLP on account of this Agreement nor shall it relieve ACM from any other liability that it may have to either of ART or ARLP, provided, however, that ACM shall be relieved of liability to the extent that the failure so to notify (a) shall have caused prejudice to the defense of such claim, or (b) shall have increased the costs or liability of ACM by reason of the inability or failure of ACM (because of the lack of prompt notice from either of ART or ARLP) to be involved in any investigations or negotiations regarding any such claim. In case any such claim shall be asserted or commenced against either of ART or ARLP and it shall notify ACM thereof, ACM shall be entitled to participate in the negotiation or administration thereof and, to the extent it may wish, to assume the defense thereof with counsel reasonably satisfactory to the party against which such Claim was initially asserted or commenced, and, after notice from ACM to the party against which such Claim was initially asserted or commenced of its election so to assume the defense thereof, which notice shall be given within 15 days of its receipt of such notice from the party against which such Claim was initially asserted or commenced, ACM will not be liable to the party against which such Claim was initially asserted or commenced hereunder for any legal or other expenses subsequently incurred by the party against which such Claim was initially asserted or commenced in connection with the defense thereof other than reasonable costs of investigation. ACM shall not settle any claim without the written consent of the party against which such Claim was initially asserted or commenced, which consent shall not be unreasonably withheld or delayed.

9. Covenants.

ACM hereby agrees to provide ARLP with a limited guaranty with respect to the 130 West 30th Street Bridge Loan (as defined on Schedule A-1 hereto), 333 East 34th Street Mezzanine Loan and the Central Jersey Mezzanine Loan (each as defined on Schedule A-2 hereto) and the Preferred Equity Interest held by ANMB Holdings, LLC (as described on Schedule C hereto), pursuant to a Guaranty, made by ACM in favor of ARLP, substantially in the form of Exhibit B;

10. Specific Performance. ACM and ARLP acknowledge that damages would be an

inadequate remedy for any breach of the provisions of this Agreement and agree that the obligations of the parties hereunder shall be specifically enforceable.

11. Expenses. Whether or not the Closing occurs, all costs and expenses incurred in connection with this Agreement and the transactions contemplated hereby shall be paid by ACM.

12. Further Assurances. From time to time following the Closing, ACM shall execute and deliver, or cause to be executed and delivered, to ARLP such other documents or instruments of conveyance and transfer as ARLP may reasonably request or as may be otherwise necessary to more effectively convey and transfer to, and vest in, ARLP, the ACM Initial Assets, the ANMB II Membership Interests, the Membership Interests and the Liabilities, or in order to fully effectuate and to implement the purposes, terms and provisions of this Agreement. To the extent that hereafter ACM receives any payments in respect of the Initial Assets or the Membership Interests on or after the date of the Closing, ACM shall forward the same to ARLP within five (5) business days.

13. Entire Agreement: No Other Representations. Except as expressly agreed in a separate writing signed by the parties hereto on or after the date of this Agreement, this Agreement constitutes the entire agreement, and supersedes all other prior agreements and understandings, both written and oral, between the parties, with respect to the subject matter hereof. Except as set forth herein, ACM makes no representation, express or implied, with respect to the Initial Assets or the Membership Interests or the enforceability, collectability, suitability or value thereof.

14. Severability. The provisions of this Agreement shall be deemed severable and the invalidity or unenforceability of any provision shall not affect the validity or enforceability of the other provisions hereof. If any provision of this Agreement, or the application thereof to any person or entity or any circumstance, is invalid or unenforceable (a) a suitable and equitable provision shall be substituted therefor in order to carry out, so far as may be valid and enforceable, the intent and purpose of such invalid or unenforceable provision and (b) the remainder of this Agreement and the application of such provision to other persons or entities or circumstances shall not be affected by such invalidity or unenforceability, nor shall such invalidity or unenforceability affect the validity or enforceability of such provision, or the application thereof, in any other jurisdiction.

15. Interpretation. The section references and headings herein are for convenience of reference only, do not constitute part of this Agreement and shall not be deemed to limit or otherwise affect any of the provisions hereof.

16. Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their successors and assigns. ARLP shall have the

right to assign its rights under this agreement as respects any ACM Initial Asset, the ANMB II Membership Interests or any of the Membership Interests to any purchaser of such ACM Initial Asset the ANMB II Membership Interests or any of the Membership Interests Nothing in this Agreement, expressed or implied, is intended or shall be construed to confer upon any person or entity other than the parties and their successors and assigns any right, remedy or claim under or by reason of this Agreement.

17. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original but all of which shall constitute one instrument.

18. Choice of Law. THIS AGREEMENT AND THE RIGHTS OF THE PARTIES HEREUNDER SHALL BE GOVERNED BY AND INTERPRETED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK WITHOUT REGARD TO PRINCIPLES GOVERNING CONFLICTS OF LAWS.

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

ARBOR COMMERCIAL MORTGAGE, LLC

By: /s/ Frederick C. Herbst

Name: Frederick C. Herbst
Title: Chief Financial Officer

ARBOR REALTY TRUST, INC.

By: /s/ Frederick C. Herbst

Name: Frederick C. Herbst
Title: Chief Financial Officer

ARBOR REALTY LIMITED PARTNERSHIP

By: Arbor Realty GPOP, Inc.,
its General Partner

By: /s/ Frederick C. Herbst

Name: Frederick C. Herbst
Title: Secretary and Treasurer

SCHEDULE A-1

BRIDGE LOANS

"1025 5th Avenue Bridge Loan" means the bridge loan evidenced by the Promissory Note, dated as of October 10, 2002, by Adam C. Hochfelder and Amy M. Hochfelder in favor of Arbor Commercial Mortgage, LLC.

"130 West 30th Street Bridge Loan" means the bridge loan evidenced by the Amended, Consolidated and Restated Promissory Note, dated as of September 20, 2001 by 130 West 30th, LLC in favor of Arbor Commercial Mortgage, LLC.

"Concord and Henry Bridge Loan" means the bridge loan evidenced by the Promissory Note, dated April 3, 2003, by Henry Terrace, LLC and 100 Concord St., LLC in favor of Arbor Commercial Mortgage, LLC.

"Dylan Hotel Bridge Loan" means the bridge loan evidenced by the Amended and Restated Mortgage Note, dated as of March 31, 2003, by Grand Palace Hotel at the Park LLC in favor of Arbor Commercial Mortgage, LLC, subject to all right, title and interest of BD Hotels, LLC ("BD") to a certain amount of the principal and interest payments due on Dylan Hotel Bridge Loan and such other rights, title and interests of BD with respect to the Dylan Hotel Bridge Loan, each as granted by ACM to BD pursuant to the Participation Agreement, dated as of April 8, 2003 between Arbor Commercial Mortgage, LLC and BD.

"Emerald Bay Bridge Loan" means the bridge loan evidenced by the Promissory Note, dated as of May 14, 2003, by Empirian Bay LLC in favor of Arbor Commercial Mortgage, LLC, subject to all right, title and interest of RFC to a certain amount of the principal and interest payments due on Emerald Bay Bridge Loan and such other rights, title and interests of [*] with respect to the Emerald Bay Bridge Loan, each as granted by ACM to [*] pursuant to the Participation Agreement, dated as of May 14, 2003 between Arbor Commercial Mortgage, LLC and [*].

"Grand Plaza Bridge Loan" means the bridge loan evidenced by the Promissory Note, dated as of November 27, 2002, by Grand Plaza Limited Partnership in favor of Arbor Commercial Mortgage, LLC.

"Holiday Inn - Deland Bridge Loan" means the bridge loan evidenced by the Promissory Note, dated as of March 31, 2000 by Hospitality Associates of Deland Florida, Ltd., in favor of Arbor National Commercial Mortgage, LLC.

The material marked [*] has been omitted pursuant to a request for confidential treatment by Arbor Realty Trust, Inc. and has been filed separately with the

Securities and Exchange Commission.

"NHP Bridge Loan" means the bridge loan evidenced by the Promissory Note, dated as of February 27, 2003, by NSH Affordable Housing of Indiana, Inc. in favor of Arbor Commercial Mortgage, LLC.

"Palmetto Villas Bridge Loan" means the bridge loan evidence by the Promissory Note, dated as of May 7, 2003, by Palmetto Villas Investors, LLC in favor of Arbor Commercial Mortgage, LLC.

"Partners Portfolio Bridge Loan" means the bridge loan evidenced by the Promissory Note with respect to Tranch A, dated as of April 30, 2003, by SRH/LA Chesapeake Apartments, L.P., SRH/LA Nottingham, LLC, SRH/LA Hunter, LLC, SRH/LA Melvin, LLC in favor of Arbor Commercial Mortgage, LLC.

"Tropical Gardens Bridge Loan" means the bridge loan evidenced by the Promissory Note, dated as of December 20, 2002, by NHP Tropical Gardens Limited Partnership in favor of Arbor Commercial Mortgage, LLC.

"Vermillion Apartments Bridge Loan" means the bridge loan evidenced by the Promissory Note, dated as of September 24, 2002, by SRH Vermillion Limited Partnership in favor of Arbor Commercial Mortgage, LLC.

SCHEDULE A-2

MEZZANINE LOANS

"333 East 34th Street Mezzanine Loan" means the mezzanine loan evidenced by the Promissory Note by 333 East 34th, LLC, dated as of January 9, 2002, in favor of Arbor Commercial Mortgage, LLC.

"Carlton Arms Mezzanine Loan" means the mezzanine loan evidenced by the Promissory Note, dated as of November 14, 2001, by Carlton Arms, LLC and HRA Egypt Lake, Inc. in favor of Arbor Commercial Mortgage, LLC.

"Partners Portfolio Mezzanine Loan" means the mezzanine loan evidenced by the Promissory Note with respect to Tranch B, dated as of April 30, 2003, by SRH/LA Chesapeake Apartments, L.P., SRH/LA Nottingham, LLC, SRH/LA Hunter, LLC, SRH/LA Melvin, LLC in favor of Arbor Commercial Mortgage, LLC.

"Turtle Creek Apartments Mezzanine Loan" means the mezzanine loan evidenced by the Promissory Note, dated as of October 7, 2002, by Turtle Creek Development, L.P. in favor of Arbor Commercial Mortgage, LLC.

SCHEDULE A-3

OTHER LOANS

"Albion Loan" means the loan evidenced by the Severed Promissory Note B, dated as of March 14, 2001, by Albion Associates, Ltd. in favor of Mezzobridge Funding LLC, and assigned to Arbor Commercial Mortgage LLC as of July 31, 2001.

"Ornstein Loan" means the loan evidenced by the Multifamily Note, dated as of August 31, 1995, by and between Ornstein 215-217 East 86 LLC and Arbor National Commercial Mortgage Corporation.

SCHEDULE A-4

"Central Jersey Mezzanine Loan" means the mezzanine loan evidenced by the Promissory Note made as of August 1, 2002 by Central Jersey Sub VI LLC and Central Jersey Sub VII LLC in favor of ANMB II, as amended by (1) the Modification of Promissory Note and Other Loan Documents and Assumption and Reaffirmation, made as of October 31, 2002, by and among Central Jersey Sub VII LLC, Central Jersey Sub VIII LLC, Central Jersey Prime III LLC, Livingston Terrace L.L.C., Highland Montgomery L.L.C., Rubin Schron, David Lichtenstein, Joseph Tabak and Jersey Central Management, L.L.C. and ANMB II and (2) the Second Modification of Promissory Note and Other Loan Documents and Reaffirmation, dated as of May 9, 2003, by and among Central Jersey Sub VII LLC, Central Jersey Sub VIII LLC, Central Jersey Prime III LLC, Livingston Terrace

L.L.C., Highland Montgomery L.L.C., Rubin Schron, David Lichtenstein, Joseph Tabak and Jersey Central Management, L.L.C. and ANMB II.

SCHEDULE B

PREFERRED EQUITY HOLDERS

1. ANMB Holdings, LLC, a wholly-owned subsidiary of ACM and the holder of 100% of the preferred interests in Central Jersey Prime Holdings LLC, pursuant to the Limited Liability Company Agreement of Central Jersey Prime Holdings LLC, dated as of May 9, 2003, by and among Central Jersey LLC, ANMB Holdings, LLC, Arbor National CJ LLC, TRAC Central Jersey LLC and CAM Jersey LLC.

2. Arbor Park Place LLC, a wholly-owned subsidiary of ACM and holder of 18% of the membership interest in Santa Ana Park Place Associates LLC, pursuant to the Operating Agreement of Santa Ana Park Place Associates LLC, dated as of January 8, 2002, by and among Santa Ana Park Place Corp., Hanover Financial Company and Arbor Park Place LLC.

3. Arbor Devonshire, LLC, a wholly-owned subsidiary of ACM and holder of 100% of the preferred interests of Merchant Devonshire Limited Partnership, pursuant to the Amended and Restated Limited Partnership Agreement of Merchant Devonshire Limited Partnership, dated as of December 23, 1998 (the "Devonshire LP Agreement"), by and among Third Merchant Investors Corp., Arbor Devonshire, LLC and First Merchants Group Limited Partnership, as amended by Amendment No. 1 to the Devonshire LP Agreement, dated as of May 30, 2000, Amendment No. 2 to the Devonshire LP Agreement, dated as of January 1, 2002 and Amendment No. 3 to the Devonshire LP Agreement, dated as of January 1, 2003.

4. Arbor Texas CDS, LLC, a wholly-owned subsidiary of ACM and holder of 100% of the Class C Partnership Units of CDS-Texas Investors, L.P., pursuant to the Amended and Restated Agreement of Limited Partnership of CDS-Texas Investors, L.P., dated as of January 1, 2003, by and among Daniel R. Stanger, Christian V. Young, Dean A. Allara, Skyline Property Associates II, L.P. and Arbor Texas CDS, LLC.

5. ACM Gateway, LLC, a wholly-owned subsidiary of ACM and holder of 100% of the preferred interests of BP-CO 4 Property Associates, LLC, pursuant to the Limited Liability Company Agreement of BP-CO 4 Property Associates, LLC, dated as of February 8, 2002, by and among BP Villages Management, Inc, ACM Gateway, LLC and other junior members.

SCHEDULE C

PREFERRED EQUITY INTERESTS

1. 100% of the preferred interests, held by Arbor Devonshire, LLC, a wholly owned subsidiary, of Merchant Devonshire Limited Partnership as evidenced by the Amended and Restated Limited Partnership Agreement of Merchant Devonshire Limited Partnership, entered into as of January 17, 2002, by and among Third Merchant Investors Corp., Arbor Devonshire LLC and First Merchants Group Limited Partnership.

2. 100% of the Class C Partnership Units of CDS-Texas Investors, L.P., held by Arbor Texas CDS, LLC, a wholly owned subsidiary, as evidenced by the Amended and Restated Agreement of Limited Partnership of CDS-Texas Investors, L.P., by and among Daniel R. Stanger, Christian V. Young, Dean A. Allara, Skyline Property Associates II, L.P. and Arbor Texas CDS, LLC.

3. 100% of the preferred interests of Central Jersey Prime Holdings, LLC, held by ANMB Holdings, LLC, as evidenced by the Limited Liability Company Agreement of Central Jersey Prime Holdings, LLC, dated as of May 9, 2003, by and among Central Jersey LLC, ANMB Holdings, LLC, Arbor National CJ LLC, TRAC Central Jersey LLC and CAM Jersey LLC.

4. 18% of the membership interests in Santa Ana Park Place Associates LLC, held by Arbor Park Place, LLC, and evidenced by the Operating Agreement of Santa Ana Park Place Associates LLC, dated as of January 8, 2002, by

and among Santa Ana Park Place Corp., Hanover Financial Company and Arbor Park Place LLC;

5. 100% of the preferred interests of BP-CO 4 Property Associates, LLC held by ACM Gateway, LLC and evidenced by the Limited Liability Company Agreement of BP-CO 4 Property Associates, LLC, effective as of February 8, 2002, by and among BP Villages Management, Inc, ACM Gateway, LLC and other junior members.

SCHEDULE 4(b)(XXI)

None.

EXHIBIT A

ASSIGNMENT AND ASSUMPTION AGREEMENT

This ASSIGNMENT AND ASSUMPTION AGREEMENT, dated as July 1, 2003, is executed and delivered, by and between Arbor Commercial Mortgage, LLC, a Delaware limited liability company ("ACM") and Arbor Realty Limited Partnership, a Delaware limited partnership ("ARLP"), pursuant to that certain Contribution Agreement dated as of July 1, 2003 (the "Contribution Agreement"), by and among ACM, Arbor Realty Trust, Inc., a Maryland corporation ("ART") and ARLP.

RECITALS

WHEREAS, pursuant to the Contribution Agreement, ARLP has agreed to transfer the Partnership Units and the Warrants to ACM in exchange for the Contributed Assets, upon the terms and conditions specified in the Contribution Agreement.

Capitalized terms used herein but not otherwise defined herein shall have the meanings ascribed thereto in the Contribution Agreement.

NOW, THEREFORE, in consideration of the promises contained in the Contribution Agreement and for other good and valuable consideration, ARLP and ACM agree as follows:

1. ACM does hereby transfer, convey, assign and deliver to ARLP, and ARLP hereby accepts from ACM, all of the rights, title and interests of ACM in, to and under the ACM Initial Assets (including all promissory notes, security agreements, guarantees and other agreements that evidence or secure such ACM Initial Assets), in each case to have and hold unto ARLP, its successors and assigns forever.

2. ACM does hereby transfer, convey, assign and deliver to ARLP, and ARLP hereby accepts from ACM, (a) 100% of the Membership Interests of each of the Preferred Equity Holders of the Preferred Equity Interests and (b) 100% of the ANMB II Membership Interests, in each case to have and hold unto ARLP, its successors and assigns forever.

3. ARLP hereby assumes all of the liabilities and agrees to perform any and all duties and obligations of ACM under the documents that evidence or otherwise

govern the rights and obligations of ACM with respect to the liabilities and under any agreement referred to paragraph 1, with respect to the ACM Initial Assets.

4. The terms and provisions of this Assignment and Assumption Agreement shall be binding upon and inure to the benefit of the parties and their respective successors and assigns.

5. This Assignment and Assumption Agreement shall be governed by and construed in accordance with the laws of the State of New York without giving effect to principles governing conflicts of laws.

IN WITNESS WHEREOF, each of ARLP and ACM have caused this Assignment and

Assumption Agreement to be duly executed and attested to by its officer hereunto duly authorized as of the day and year first above written.

ARBOR COMMERCIAL MORTGAGE, LLC

By: _____
Name: Frederick C. Herbst
Title: Chief Financial Officer

ARBOR REALTY LIMITED PARTNERSHIP

By: Arbor Realty GPOP, Inc.,
its General Partner

By: _____
Name: Frederick C. Herbst
Title: Secretary and Treasurer

EXHIBIT B

GUARANTY

This GUARANTY (this "Guaranty"), dated as of July 1, 2003, is by Arbor Commercial Mortgage, LLC, a New York limited liability company ("ACM"), ACM 34th Street, LLC, a Delaware limited liability company and a wholly-owned subsidiary of ACM ("ACM 34th"), Arbor 30th LLC, a New York limited liability company and a wholly-owned subsidiary of ACM ("Arbor 30th"), Arbor National CJ LLC, a New York limited liability company and a wholly-owned subsidiary of ACM ("CJ") and Arbor National CJ II, LLC, a New York limited liability company and a wholly-owned subsidiary of ACM ("CJ II", and together with ACM 34th, Arbor 30th and CJ, the "Subsidiary Guarantors"), in favor of Arbor Realty Limited Partnership, a Delaware limited partnership ("ARLP"), ANMB Holdings, LLC, a New York limited liability company ("ANMB") and ANMB Holdings II, LLC, a New York limited liability company ("ANMB II").

W I T N E S S E T H

WHEREAS, pursuant to the terms of that certain contribution agreement (the "Contribution Agreement"), dated as of July 1, 2003 (the "Contribution Date"), by and among ACM, Arbor Realty Trust, Inc., a Maryland corporation ("ART") and ARLP (capitalized terms used but not defined herein have the meanings assigned to them in the Contribution Agreement), ACM has agreed to contribute (i) the ACM Initial Assets, (ii) ACM's membership interests in ANMB II, the original lender under the Central Jersey Mezzanine Loan, and (iii) the Membership Interests of the Preferred Equity Holders of the Preferred Equity Investments to ARLP, collectively, in exchange for the Partnership Units and the Warrants;

WHEREAS, each of the 333 East 34th Street Mezzanine Loan, the 130 West 30th Street Bridge Loan and the Central Jersey Mezzanine Loan (collectively, the "Guaranteed Loans") are Initial Assets;

WHEREAS, ANMB is a Preferred Equity Holder in that it holds 100% of the preferred interests of Central Jersey Prime Holdings, LLC (the "Guaranteed Preferred Equity Investment" and together with the Guaranteed Loans, the "Guaranteed Investments");

WHEREAS, ACM 34th holds a 15% Percentage Interest (as defined in the Operating Agreement of 333 East 34th, LLC) in 333 East 34th, LLC, the borrower under the 333 East 34th Street Mezzanine Loan;

WHEREAS, Arbor 30th holds a 50% Percentage Interest (as defined in the Operating Agreement of 130 West 30th, LLC) in 130 West 30th, LLC, the borrower under the 130 West 30th Street Bridge Loan;

WHEREAS, CJ II holds a 18% Sharing Percentage (as defined in the Operating Agreement of Central Jersey Prime III LLC) in Central Jersey Prime III LLC, the managing member of the borrower under the Central Jersey Mezzanine Loan;

WHEREAS, CJ holds a 18% Junior Interest (as defined in the Operating

Agreement of Central Jersey Prime Holdings LLC) in Central Jersey Prime Holdings LLC; and

WHEREAS, ACM and the Subsidiary Guarantors (together, the "Guarantors") desire to provide ARLP, ANMB and ANMB II with a limited guaranty of (i) the repayment of a certain portion of the principal balance of each of the Guaranteed Loans and (ii) the repurchase of a certain portion of the preferred capital contribution of ANMB in Central Jersey Prime Holdings LLC.

NOW, THEREFORE, in consideration of the foregoing and the covenants and obligations set forth in this Guaranty, the parties hereto agree as follows:

1. Definitions. The following terms, as used in this Guaranty, shall have the following meanings (unless otherwise expressly provided herein):

"130 West 30th Street Note" means the Amended, Consolidated and Restated Promissory Note made as of September 20, 2001 by 130 West 30th, LLC in favor of ACM.

"130 West 30th Operating Agreement" means the Operating Agreement of 130 West 30th, LLC, dated as of September 20, 2001, by and between H.J. Development, LLC and Arbor 30th.

"333 East 34th Street Note" means the Promissory Note made as of January 9, 2002 by 333 East 34th, LLC in favor of ACM.

"333 East 34th Operating Agreement" means the Operating Agreement of 333 East 34th, LLC, dated as of June 19, 2001, by and among ACM 34th, East 34th Street Management, LLC and 333 East 34th Street, LLC.

"Central Jersey Mezzanine Operating Agreement" means the Operating Agreement of Central Jersey Prime III LLC, dated as of July 12, 2000, by and among Central Jersey LLC, ANMB II, TRAC Central Jersey II LLC and CJ II, as amended by the Amendment to Operating Agreement, dated as of August 1, 2002 and the Amendment to Operating Agreement, dated as of May 9, 2003.

"Central Jersey Note" means the Promissory Note made as of August 1, 2002 by Central Jersey Sub VI LLC and Central Jersey Sub VII LLC in favor of ANMB II, as amended by (1) the Modification of Promissory Note and Other Loan Documents and Assumption and Reaffirmation, made as of October 31, 2002, by and among Central Jersey Sub VII LLC, ANMB II and the other parties thereto and (2) the Second Modification of Promissory Note and Other Loan Documents and Reaffirmation, made as of May 9, 2003, by and among Central Jersey Sub VII LLC, ANMB II and the other parties thereto.

"Central Jersey Preferred Operating Agreement" means the Limited Liability Company Agreement of Central Jersey Prime Holdings LLC, dated as of May 9, 2003, by and among Central Jersey LLC, ANMB, CJ and TRAC Central Jersey LLC.

"Guaranteed Loan Principal Balance" means:

(a) with respect to the 130 West 30th Street Bridge Loan, the outstanding principal balance of the 130 West 30th Street Bridge Loan as of the Contribution Date, namely $16,000,000.00, plus (a) any Interest Expense relating to the 130 West 30th Street Bridge Loan paid by ARLP subsequent to the Contribution Date, minus (b) the aggregate of the following amounts received by ARLP subsequent to the Contribution Date in accordance with the terms of the 130 West 30th Street Note: (i) interest payments on the unpaid principal balance of the 130 West 30th Street Bridge Loan, and (ii) Late Charges (as defined Section 1.3 of the 130 West 30th Street Note);

(b) with respect to the 333 East 34th Street Mezzanine Loan, the outstanding principal balance of the 333 East 34th Street Mezzanine Loan as of the Contribution Date, namely $10,000,000.00, plus (a) any Interest Expense relating to the 333 East 34th Street Mezzanine Loan paid by ARLP

subsequent to the Contribution Date, minus (b) the aggregate of the following amounts received by ARLP subsequent to the Contribution Date in accordance with the terms of the 333 East 34th Street Note: (i) interest payments on the unpaid principal balance of the 333 East 34th Street Mezzanine Loan, (ii) Late Charges (as defined Section 1.9 of the 333 East 34th Street Note), and (iii) Extension Fees (as defined Section 2.7 of the 130 West 30th Street Note); and

(c) with respect to the Central Jersey Mezzanine Loan, the outstanding principal balance of the Central Jersey Mezzanine Loan as of the Contribution Date, namely $3,000,000.00, plus (a) any Interest Expense relating to the Central Jersey Mezzanine Loan paid by ANMB II (or ARLP, if applicable) subsequent to the Contribution Date, minus (b) the aggregate of the following amounts received by ANMB II (or ARLP, if applicable) subsequent to the Contribution Date in accordance with the terms of the Central Jersey Note: (i) interest payments on the unpaid principal balance of the Central Jersey Mezzanine Loan, and (ii) any Exit Fees (as defined in the Central Jersey Note).

"Guaranteed Preferred Capital Contribution" means the Unreturned Preferred Capital Contribution (as defined in the Central Jersey Preferred Operating Agreement) as of the Contribution Date, namely $19,300,000.00, plus (a) any Interest Expense relating to the Central Jersey Preferred Equity Investment paid by ARLP (or ANMB, if applicable) subsequent to the Contribution Date, minus (b) the aggregate of the following amounts received by ANMB subsequent to the Contribution Date: (i) any Capital Proceeds or Net Cash Receipts (as each such term is defined in the Central Jersey Preferred Operating Agreement) and (ii) any Preferred Return (as defined in the Central Jersey Preferred Operating Agreement).

"Interest Expense" means any interest payments made by ARLP after the Contribution Date with respect to any of the Guaranteed Investments pursuant to (a) the Assignment and Assumption Agreement, dated as of July 1, 2003, by and between ACM and ARLP relating to the [*] Repurchase Agreement, (b) the Structured Facility Warehousing Credit and Security Agreement, dated as of July 1, 2003, by and between [*] and ARLP, (c) the Master Repurchase Agreement, dated as of July 1, 2003, by and between [*] and ARLP, or (d) any other warehouse facility, repurchase agreement, credit agreement or other

agreement entered into by ARLP which provides financing for the Guaranteed Investments.

"Subsidiary Guarantors' Aggregate Return" means the total of the following amounts received prior to and including the Termination Date:

(a) any "net cash flow" (as such term is defined in the 130 West 30th Operating Agreement) distributed to Arbor 30th pursuant to Section 8 of the 130 West 30th Operating Agreement, subject to the terms and provisions of the 130 West 30th Operating Agreement, plus

(b) any Cash Available for Distribution (as defined in the 333 East 34th Operating Agreement) distributed to ACM 34th pursuant to Article IV of the 333 East 34th Operating Agreement, subject to the terms and provisions of the 333 East 34th Operating Agreement, plus

(c) any Capital Proceeds and Net Cash Receipts (as each such term is defined in the Central Jersey Preferred Operating Agreement) distributed to CJ pursuant to Article 5 of the Central Jersey Preferred Operating Agreement, subject to the terms and provisions of the Central Jersey Preferred Operating Agreement, plus

(d) any Available Cash or Capital Proceeds (as each such term is defined in the Central Jersey Mezzanine Operating Agreement) or Special Tax Distributions (as described in Section 8.9 of the Central Jersey Mezzanine Operating Agreement) distributed to CJ II pursuant to Article 8 of the Central Jersey Mezzanine Operating Agreement, subject to the

terms and provisions of the Central Jersey Mezzanine Operating Agreement.

2. Guaranty.

(a) Subject to the limitations set forth in Section 3 hereof, if any portion of the Guaranteed Loan Principal Balance of any of the Guaranteed Loans is not paid to ARLP or ANMB II, as applicable, at the applicable Guaranteed Loan's maturity date in accordance with the terms of the note and other loan documents relating to such Guaranteed Loan (the "Unpaid Guaranteed Loan Principal Balance"), the Guarantors, jointly and severally, hereby agree to pay to ARLP or ANMB II, as applicable, the portion of the Unpaid Guaranteed Loan Principal Balance of such Guaranteed Loan that is equal to or less than the Subsidiary Guarantors' Aggregate Return.

(b) Subject to the limitations set forth in Section 3 hereof, if any portion of the Guaranteed Preferred Capital Contribution is not paid to ANMB (or ARLP, if applicable) at the Required Purchase Date (as defined in the Central Jersey Preferred Operating Agreement) in accordance with Section 11.3 of the Central Jersey Preferred Operating Agreement (the "Unpaid Guaranteed Preferred Capital Contribution"), the Guarantors, jointly and severally, hereby agree to pay to ANMB (or ARLP, if applicable) the portion of the Unpaid Guaranteed Preferred Capital Contribution that is equal to or less than the Subsidiary Guarantors' Aggregate Return.

(c) As an Unpaid Guaranteed Loan Principal Balance or the Unpaid Guaranteed Preferred Capital Contribution becomes due and payable from time to time by the Guarantors pursuant to Section 2(a) and Section 2(b), respectively, ARLP shall deliver to ACM, within 10 business days of such amounts becoming due, written notice stating the amount of such Unpaid Guaranteed Loan Principal Balance or Unpaid Guaranteed Preferred Capital Contribution, as applicable. To the extent that the Subsidiary Guarantors' Aggregate Return as of the date such notice is received is greater than or equal to the amount stated in such notice, the Guarantors shall disburse the Unpaid Guaranteed Loan Principal Balance or Unpaid Guaranteed Preferred Capital Contribution, as applicable, to ARLP, ANMB II or ANMB, as applicable, within 10 business days of receipt of such notice. To the extent that the Subsidiary Guarantors' Aggregate Return as of the date such notice is received is less than the amount stated in such notice, such Unpaid Guaranteed Loan Principal Balance or Unpaid Guaranteed Preferred Capital Contribution, as applicable, shall remain due and payable by the Guarantors, and, as amounts constituting Subsidiary Guarantors' Aggregate Return are received by the Guarantors, such amounts shall be disbursed to ARLP, ANMB II or ANMB, as applicable, within five business days following their receipt, until all Unpaid Guaranteed Loan Principal Balances or the Unpaid Guaranteed Preferred Capital Contribution, as applicable, has been fully paid.

3. Termination. This Guaranty will be terminated and the Guarantors will no longer be obligated to pay any further amounts to ARLP or ANMB II, as applicable, in respect of any of the Guaranteed Loans or to pay any further amounts to ANMB in respect of the Guaranteed Preferred Equity Investment on the date on which all of the following conditions are met (the "Termination Date"):

(a) the remaining aggregate Unpaid Guaranteed Loan Principal Balance of the Guaranteed Loans, plus the remaining Unpaid Guaranteed Preferred Capital Contribution, is less than $5,000,000,

(b) no Event of Default (as such term is defined in note and the loan documents relating to each of the Guaranteed Loans) with respect to any Guaranteed Loan has occurred and is continuing, and

(c) no Trigger Event (as defined in the Central Jersey Preferred Operating Agreement) has occurred and is continuing.

4. Notice of Receipt of Returns. ACM shall provide written notice to ARLP within 15 business days of the end of each fiscal quarter of all

amounts that constitute Subsidiary Guarantors' Aggregate Return received by the Guarantors during the preceding quarter.

5. Governing Law. This Guaranty shall be governed by and construed in accordance with the laws of the State of New York.

6. Severability. If any provision of this Guaranty or the application of any such provision to any person or circumstances shall be held invalid by a court of competent jurisdiction, the remainder of this Guaranty, including the remainder of the provision held invalid, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

7. Counterparts. This Guaranty may be executed in one or more counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one and the same instrument.

8. Headings. All section headings herein are for convenience of reference and are not part of this Guaranty, and no construction or interference shall be derived therefrom.

IN WITNESS WHEREOF, the parties hereto has executed this Guaranty as of the date first above written.

ARBOR COMMERCIAL MORTGAGE, LLC

By: _____
Name: Frederick C. Herbst
Title: Chief Financial Officer

ARBOR 30th, LLC

By: _____
Name:
Title:

ACM 34th STREET LLC

By: _____
Name:
Title:

ARBOR NATIONAL CJ LLC

By: _____
Name:
Title:

ARBOR NATIONAL CJ II, LLC

By: _____
Name:
Title:

Acknowledged and Accepted by:

ARBOR REALTY LIMITED PARTNERSHIP

By: ARBOR REALTY GPOP, INC.,
its General Partner

By: _____
Name: Frederick C. Herbst
Title: Treasurer and Secretary

ANMB HOLDINGS, LLC

By: ARBOR REALTY LIMITED PARTNERSHIP,

its sole member

By: ARBOR REALTY GPOP, INC.,
its General Partner

By: _____
Name: Frederick C. Herbst
Title: Treasurer and Secretary

ANMB HOLDINGS II, LLC

By: ARBOR REALTY LIMITED PARTNERSHIP,
its sole member

By: ARBOR REALTY GPOP, INC.,
its General Partner

By: _____
Name: Frederick C. Herbst
Title: Treasurer and Secretary

EXHIBIT 2.2

GUARANTY

This GUARANTY (this "Guaranty"), dated as of July 1, 2003, is by Arbor Commercial Mortgage, LLC, a New York limited liability company ("ACM"), ACM 34th Street, LLC, a Delaware limited liability company and a wholly-owned subsidiary of ACM ("ACM 34th"), Arbor 30th LLC, a New York limited liability company and a wholly-owned subsidiary of ACM ("Arbor 30th"), Arbor National CJ LLC, a New York limited liability company and a wholly-owned subsidiary of ACM ("CJ") and Arbor National CJ II, LLC, a New York limited liability company and a wholly-owned subsidiary of ACM ("CJ II", and together with ACM 34th, Arbor 30th and CJ, the "Subsidiary Guarantors"), in favor of Arbor Realty Limited Partnership, a Delaware limited partnership ("ARLP"), ANMB Holdings, LLC, a New York limited liability company ("ANMB") and ANMB Holdings II, LLC, a New York limited liability company ("ANMB II").

W I T N E S S E T H

WHEREAS, pursuant to the terms of that certain contribution agreement (the "Contribution Agreement"), dated as of July 1, 2003 (the "Contribution Date"), by and among ACM, Arbor Realty Trust, Inc., a Maryland corporation ("ART") and ARLP (capitalized terms used but not defined herein have the meanings assigned to them in the Contribution Agreement), ACM has agreed to contribute (i) the ACM Initial Assets, (ii) ACM's membership interests in ANMB II, the original lender under the Central Jersey Mezzanine Loan, and (iii) the Membership Interests of the Preferred Equity Holders of the Preferred Equity Investments to ARLP, collectively, in exchange for the Partnership Units and the Warrants;

WHEREAS, each of the 333 East 34th Street Mezzanine Loan, the 130 West 30th Street Bridge Loan and the Central Jersey Mezzanine Loan (collectively, the "Guaranteed Loans") are Initial Assets;

WHEREAS, ANMB is a Preferred Equity Holder in that it holds 100% of the preferred interests of Central Jersey Prime Holdings, LLC (the "Guaranteed Preferred Equity Investment" and together with the Guaranteed Loans, the "Guaranteed Investments");

WHEREAS, ACM 34th holds a 15% Percentage Interest (as defined in the Operating Agreement of 333 East 34th, LLC) in 333 East 34th, LLC, the borrower under the 333 East 34th Street Mezzanine Loan;

WHEREAS, Arbor 30th holds a 50% Percentage Interest (as defined in the Operating Agreement of 130 West 30th, LLC) in 130 West 30th, LLC, the borrower under the 130 West 30th Street Bridge Loan;

The material marked [*] has been omitted pursuant to a request for confidential treatment by Arbor Realty Trust, Inc. and has been filed separately with the Securities and Exchange Commission.

WHEREAS, CJ II holds a 18% Sharing Percentage (as defined in the Operating Agreement of Central Jersey Prime III LLC) in Central Jersey Prime III LLC, the managing member of the borrower under the Central Jersey Mezzanine Loan;

WHEREAS, CJ holds a 18% Junior Interest (as defined in the Operating Agreement of Central Jersey Prime Holdings LLC) in Central Jersey Prime Holdings LLC; and

WHEREAS, ACM and the Subsidiary Guarantors (together, the "Guarantors") desire to provide ARLP, ANMB and ANMB II with a limited guaranty of (i) the repayment of a certain portion of the principal balance of each of the Guaranteed Loans and (ii) the repurchase of a certain portion of the preferred capital contribution of ANMB in Central Jersey Prime Holdings LLC.

NOW, THEREFORE, in consideration of the foregoing and the covenants and obligations set forth in this Guaranty, the parties hereto agree as follows:

1. Definitions. The following terms, as used in this Guaranty, shall have the following meanings (unless otherwise expressly provided herein):

"130 West 30th Street Note" means the Amended, Consolidated and Restated Promissory Note made as of September 20, 2001 by 130 West 30th, LLC in favor of ACM.

"130 West 30th Operating Agreement" means the Operating Agreement of 130 West 30th, LLC, dated as of September 20, 2001, by and between H.J. Development, LLC and Arbor 30th.

"333 East 34th Street Note" means the Promissory Note made as of January 9, 2002 by 333 East 34th, LLC in favor of ACM.

"333 East 34th Operating Agreement" means the Operating Agreement of 333 East 34th, LLC, dated as of June 19, 2001, by and among ACM 34th, East 34th Street Management, LLC and 333 East 34th Street, LLC.

"Central Jersey Mezzanine Operating Agreement" means the Operating Agreement of Central Jersey Prime III LLC, dated as of July 12, 2000, by and among Central Jersey LLC, ANMB II, TRAC Central Jersey II LLC and CJ II, as amended by the Amendment to Operating Agreement, dated as of August 1, 2002 and the Amendment to Operating Agreement, dated as of May 9, 2003.

"Central Jersey Note" means the Promissory Note made as of August 1, 2002 by Central Jersey Sub VI LLC and Central Jersey Sub VII LLC in favor of ANMB II, as amended by (1) the Modification of Promissory Note and Other Loan Documents and Assumption and Reaffirmation, made as of October 31, 2002, by and among Central Jersey Sub VII LLC, ANMB II and the other parties thereto and (2) the Second Modification of Promissory Note and Other Loan Documents

and Reaffirmation, made as of May 9, 2003, by and among Central Jersey Sub VII LLC, ANMB II and the other parties thereto.

"Central Jersey Preferred Operating Agreement" means the Limited Liability Company Agreement of Central Jersey Prime Holdings LLC, dated as of May 9, 2003, by and among Central Jersey LLC, ANMB, CJ and TRAC Central Jersey LLC.

"Guaranteed Loan Principal Balance" means:

(a) with respect to the 130 West 30th Street Bridge Loan, the outstanding principal balance of the 130 West 30th Street Bridge Loan as of the Contribution Date, namely $16,000,000.00, plus (a) any Interest Expense relating to the 130 West 30th Street Bridge Loan paid by ARLP subsequent to the Contribution Date, minus (b) the aggregate of the following amounts received by ARLP subsequent to the Contribution Date in accordance with the terms of the 130 West 30th Street Note: (i) interest payments on the unpaid principal balance of the 130 West 30th Street Bridge Loan, and (ii) Late Charges (as defined Section 1.3 of the 130 West 30th Street Note);

(b) with respect to the 333 East 34th Street Mezzanine Loan, the outstanding principal balance of the 333 East 34th Street Mezzanine Loan as of the Contribution Date, namely $10,000,000.00, plus (a) any Interest Expense relating to the 333 East 34th Street Mezzanine Loan paid by ARLP subsequent to the Contribution Date, minus (b) the aggregate of the following amounts received by ARLP subsequent to the Contribution Date in accordance with the terms of the 333 East 34th Street Note: (i) interest payments on the unpaid principal balance of the 333 East 34th Street Mezzanine Loan, (ii) Late Charges (as defined Section 1.9 of the 333 East 34th Street Note), and (iii) Extension Fees (as defined Section 2.7 of the 130 West 30th Street Note); and

(c) with respect to the Central Jersey Mezzanine Loan, the outstanding principal balance of the Central Jersey Mezzanine Loan as of the Contribution Date, namely $3,000,000.00, plus (a) any Interest Expense relating to the Central Jersey Mezzanine Loan paid by ANMB II (or ARLP, if applicable) subsequent to the Contribution Date, minus (b) the aggregate of the following amounts received by ANMB II (or ARLP, if applicable) subsequent to the Contribution Date in accordance with the terms of the Central Jersey Note: (i) interest payments on the unpaid principal balance of the Central Jersey Mezzanine Loan, and (ii) any

Exit Fees (as defined in the Central Jersey Note).

"Guaranteed Preferred Capital Contribution" means the Unreturned Preferred Capital Contribution (as defined in the Central Jersey Preferred Operating Agreement) as of the Contribution Date, namely $19,300,000.00, plus (a) any Interest Expense relating to the Central Jersey Preferred Equity Investment paid by ARLP (or ANMB, if applicable) subsequent to the Contribution Date, minus (b) the aggregate of the following amounts received by ANMB subsequent to the

Contribution Date: (i) any Capital Proceeds or Net Cash Receipts (as each such term is defined in the Central Jersey Preferred Operating Agreement) and (ii) any Preferred Return (as defined in the Central Jersey Preferred Operating Agreement).

"Interest Expense" means any interest payments made by ARLP after the Contribution Date with respect to any of the Guaranteed Investments pursuant to (a) the Assignment and Assumption Agreement, dated as of July 1, 2003, by and between ACM and ARLP relating to the [*] Repurchase Agreement, (b) the Structured Facility Warehousing Credit and Security Agreement, dated as of July 1, 2003, by and between [*] and ARLP, (c) the Master Repurchase Agreement, dated as of July 1, 2003, by and between [*] and ARLP, or (d) any other warehouse facility, repurchase agreement, credit agreement or other agreement entered into by ARLP which provides financing for the Guaranteed Investments.

"Subsidiary Guarantors' Aggregate Return" means the total of the following amounts received prior to and including the Termination Date:

(a) any "net cash flow" (as such term is defined in the 130 West 30th Operating Agreement) distributed to Arbor 30th pursuant to Section 8 of the 130 West 30th Operating Agreement, subject to the terms and provisions of the 130 West 30th Operating Agreement, plus

(b) any Cash Available for Distribution (as defined in the 333 East 34th Operating Agreement) distributed to ACM 34th pursuant to Article IV of the 333 East 34th Operating Agreement, subject to the terms and provisions of the 333 East 34th Operating Agreement, plus

(c) any Capital Proceeds and Net Cash Receipts (as each such term is defined in the Central Jersey Preferred Operating Agreement) distributed to CJ pursuant to Article 5 of the Central Jersey Preferred Operating Agreement, subject to the terms and provisions of the Central Jersey Preferred Operating Agreement, plus

(d) any Available Cash or Capital Proceeds (as each such term is defined in the Central Jersey Mezzanine Operating Agreement) or Special Tax Distributions (as described in Section 8.9 of the Central Jersey Mezzanine Operating Agreement) distributed to CJ II pursuant to Article 8 of the Central Jersey Mezzanine Operating Agreement, subject to the terms and provisions of the Central Jersey Mezzanine Operating Agreement.

2. Guaranty.

(a) Subject to the limitations set forth in Section 3 hereof, if any portion of the Guaranteed Loan Principal Balance of any of the Guaranteed Loans is not paid to

The material marked [*] has been omitted pursuant to a request for confidential treatment by Arbor Realty Trust, Inc. and has been filed separately with the Securities and Exchange Commission.

ARLP or ANMB II, as applicable, at the applicable Guaranteed Loan's maturity date in accordance with the terms of the note and other loan documents relating to such Guaranteed Loan (the "Unpaid Guaranteed Loan Principal Balance"), the Guarantors, jointly and severally, hereby agree to pay to ARLP or ANMB II, as applicable, the portion of the Unpaid Guaranteed Loan Principal Balance of such Guaranteed Loan that is equal to or less than the Subsidiary Guarantors' Aggregate Return.

(b) Subject to the limitations set forth in Section 3 hereof, if any portion of the Guaranteed Preferred Capital Contribution is not paid to ANMB (or ARLP, if applicable) at the Required Purchase Date (as defined in the Central Jersey Preferred Operating Agreement) in accordance with Section 11.3 of the Central Jersey Preferred Operating Agreement (the "Unpaid Guaranteed Preferred Capital Contribution"), the Guarantors, jointly and severally, hereby agree to pay to ANMB (or ARLP, if applicable) the portion of the Unpaid Guaranteed Preferred Capital Contribution that is equal to or less than the Subsidiary Guarantors' Aggregate Return.

(c) As an Unpaid Guaranteed Loan Principal Balance or the Unpaid Guaranteed Preferred Capital Contribution becomes due and payable from time to time by the Guarantors pursuant to Section 2(a) and Section 2(b), respectively, ARLP shall deliver to ACM, within 10 business days of such amounts becoming due, written notice stating the amount of such Unpaid Guaranteed Loan Principal Balance or Unpaid Guaranteed Preferred Capital Contribution, as applicable. To the extent that the Subsidiary Guarantors' Aggregate Return as of the date such notice is received is greater than or equal to the amount stated in such notice, the Guarantors shall disburse the Unpaid Guaranteed Loan Principal Balance or Unpaid Guaranteed Preferred Capital Contribution, as applicable, to ARLP, ANMB II or ANMB, as applicable, within 10 business days of receipt of such notice. To the extent that the Subsidiary Guarantors' Aggregate Return as of the date such notice is received is less than the amount stated in such notice, such Unpaid Guaranteed Loan Principal Balance or Unpaid Guaranteed Preferred Capital Contribution, as applicable, shall remain due and payable by the Guarantors, and, as amounts constituting Subsidiary Guarantors' Aggregate Return are received by the Guarantors, such amounts shall be disbursed to ARLP, ANMB II or ANMB, as applicable, within five business days following their receipt, until all Unpaid Guaranteed Loan Principal Balances or the Unpaid Guaranteed Preferred Capital Contribution, as applicable, has been fully paid.

3. Termination. This Guaranty will be terminated and the Guarantors will no longer be obligated to pay any further amounts to ARLP or ANMB II, as applicable, in respect of any of the Guaranteed Loans or to pay any further amounts to ANMB in respect of the Guaranteed Preferred Equity Investment on the date on which all of the following conditions are met (the "Termination Date"):

(a) the remaining aggregate Unpaid Guaranteed Loan Principal Balance of the Guaranteed Loans, plus the remaining Unpaid Guaranteed Preferred Capital Contribution, is less than $5,000,000,

(b) no Event of Default (as such term is defined in note and the loan documents relating to each of the Guaranteed Loans) with respect to any Guaranteed Loan has occurred and is continuing, and

(c) no Trigger Event (as defined in the Central Jersey Preferred Operating Agreement) has occurred and is continuing.

4. Notice of Receipt of Returns. ACM shall provide written notice to ARLP within 15 business days of the end of each fiscal quarter of all amounts that constitute Subsidiary Guarantors' Aggregate Return received by the Guarantors during the preceding quarter.

5. Governing Law. This Guaranty shall be governed by and construed in accordance with the laws of the State of New York.

6. Severability. If any provision of this Guaranty or the application of any such provision to any person or circumstances shall be held invalid by a court of competent jurisdiction, the remainder of this Guaranty, including the remainder of the provision held invalid, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

7. Counterparts. This Guaranty may be executed in one or more counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one and the same instrument.

8. Headings. All section headings herein are for convenience of reference

and are not part of this Guaranty, and no construction or interference shall be derived therefrom.

IN WITNESS WHEREOF, the parties hereto has executed this Guaranty as of the date first above written.

ARBOR COMMERCIAL MORTGAGE, LLC

By: /s/ Frederick C. Herbst

Name: Frederick C. Herbst
Title: Chief Financial Officer

ARBOR 30th, LLC

By: Arbor Commercial Mortgagte, LLC

By: /s/ Guy R. Milone, Jr.

Name: Guy R. Milone, Jr.
Title: Associate General Counsel/Member

ACM 34th STREET LLC

By: Arbor Commercial Mortgagte, LLC

By: /s/ Guy R. Milone, Jr.

Name: Guy R. Milone, Jr.
Title: Associate General Counsel/Member

ARBOR NATIONAL CJ LLC

By: /s/ Valerie Sganga

Name: Valerie Sganga
Title: Authorized Signatory

ARBOR NATIONAL CJ II, LLC

By: /s/ Alissa M. Omelas

Name: Alissa M. Omelas
Title: Authorized Signatory

Acknowledged and Accepted by:

ARBOR REALTY LIMITED PARTNERSHIP

By: ARBOR REALTY GPOP, INC.,
its General Partner

By: /s/ Frederick C. Herbst

Name: Frederick C. Herbst
Title: Treasurer and Secretary

ANMB HOLDINGS, LLC

By: ARBOR REALTY LIMITED PARTNERSHIP,
its sole member

By: ARBOR REALTY GPOP, INC.,
its General Partner

By: /s/ Frederick C. Herbst

Name: Frederick C. Herbst
Title: Treasurer and Secretary

ANMB HOLDINGS II, LLC

By: ARBOR REALTY LIMITED PARTNERSHIP,
its sole member

By: ARBOR REALTY GPOP, INC.,
its General Partner

By: /s/ Frederick C. Herbst

Name: Frederick C. Herbst
Title: Treasurer and Secretary

EXHIBIT 2.3

INDEMNITY AGREEMENT

This INDEMNITY AGREEMENT, dated as of July 1, 2003 (this "Agreement"), is by and among Arbor Commercial Mortgage, LLC, a New York limited liability company ("ACM"), Arbor Realty Trust, Inc., a Maryland corporation ("ART"), Arbor Realty Limited Partnership, a Delaware limited partnership ("ARLP") and Mr. Ivan Kaufman ("Kaufman"). Capitalized terms not defined herein have the meaning ascribed to them in the Contribution Agreement, dated as of July 1, 2003, by and among ACM, ART and ARLP.

WHEREAS, pursuant to the Contribution Agreement, ACM has contributed Initial Assets to ARLP which include the Ornstein Loan and the 1025 5th Avenue Bridge Loan; and

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein, and intending to be legally bound hereby, the parties agree as follows:

ARTICLE I

INDEMNIFICATION

1.1 ACM and Kaufman, hereby jointly and severally agree to indemnify and hold ART and ARLP harmless from and against damages, expenses, losses, costs, claims or liabilities (each a "Claim") suffered or incurred by ART and ARLP as a direct result of any untruth or inaccuracy in any of the representations or warranties made by ACM in Section 4(b) of the Contribution Agreement with respect to the 1025 5th Avenue Bridge Loan or the Ornstein Loan as if such representations and warranties were made with respect to the 1025 5th Avenue Bridge Loan or the Ornstein Loan in the Contribution Agreement.

1.2 (a) The indemnification set forth in Section 1.1 shall only extend to a Claim with respect to the Ornstein Loan of which written notice has been given prior to the repayment in full of any and all amounts due under the Ornstein Loan; and

(b) The indemnification set forth in Section 1.1 shall only extend to a Claim with respect to the 1025 5th Avenue Bridge Loan of which written notice has been given prior to the repayment in full of any and all amounts due under the 1025 5th Avenue Bridge Loan.

1.3 Each of ART and ARLP shall give prompt written notice to ACM (the receipt of which by ACM shall constitute notice to Kaufman) as to the assertion of any Claim, or the commencement of any Claim. The omission of either of ART or ARLP to notify ACM of any such Claim shall not relieve ACM or Kaufman from

any liability in respect of such Claim that they may have to either of ART or ARLP on account of this Agreement nor shall it relieve ACM or Kaufman from any other liability that it may have to either of ART or ARLP, provided, however, that ACM and Kaufman shall be relieved of liability to the extent that the failure so to notify shall have caused prejudice to the defense of such claim. In case any such claim shall be asserted or commenced against either of ART or ARLP and it shall notify ACM thereof, ACM shall be entitled to participate in the negotiation or administration thereof and, to the extent it may wish, to assume the defense thereof with counsel reasonably satisfactory to the party against which such Claim was initially asserted or commenced, and, after notice from ACM to the party against which such Claim was initially asserted or commenced of its election so to assume the defense thereof, which notice shall be given within 15 days of its receipt of such notice from the party against which such Claim was initially asserted or commenced, ACM will not be liable to the party against which such Claim was initially asserted or commenced hereunder for any legal or other expenses subsequently incurred by the party against which such Claim was initially asserted or commenced in connection with the defense thereof other than reasonable costs of investigation. ACM shall not settle any claim without the written

consent of the party against which such Claim was initially asserted or commenced, which consent shall not be unreasonably withheld or delayed.

1.4 Notwithstanding the foregoing, nothing in this Agreement shall limit any rights of indemnification that ART or ARLP shall have from ACM or Kaufman pursuant to any other agreements or understandings between any of the parties hereto.

ARTICLE II

GENERAL PROVISIONS

2.1 Counterparts. This Agreement may be executed in counterparts, all of which shall be considered one and the same agreement and shall become effective when counterparts have been signed by each of the parties and delivered to the other parties, it being understood that all parties need not sign the same counterpart.

2.2 Governing Law. This Agreement shall be governed and construed in accordance with the laws of the State of New York, without regard to any applicable conflicts of law provisions thereof.

2.3 Assignment; Successors. This Agreement and the rights, interests or obligations of any party hereunder shall not be assigned by any party hereto (whether by operation of law or otherwise) without the prior written consent of the other parties hereto. Subject to the foregoing, this Agreement will be binding upon, inure to the benefit of and be enforceable by the parties and their respective successors and assigns.

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

ARBOR COMMERCIAL MORTGAGE, LLC

By: /s/ Frederick C. Herbst

Name: Frederick C Herbst
Title: Chief Financial Officer

/s/ Ivan Kaufman

Ivan Kaufman

ARBOR REALTY TRUST, INC.

By: /s/ Frederick C. Herbst

Name: Frederick C. Herbst
Title: Chief Financial Officer,
Treasurer and Secretary

ARBOR REALTY LIMITED PARTNERSHIP

By: ARBOR REALTY GPOP, INC.,
its General Partner

By: /s/ Frederick C. Herbst

Name: Frederick C. Herbst
Title: Secretary and Treasurer

EXHIBIT 3.1

ARBOR REALTY TRUST, INC.

ARTICLES OF INCORPORATION

ARTICLE I

INCORPORATOR

The undersigned, James J. Hanks, Jr., whose address is c/o Venable, Baetjer and Howard, LLP, 1800 Mercantile Bank & Trust Bldg., 2 Hopkins Plaza, Baltimore, Maryland 21201, being at least 18 years of age, does hereby form a corporation under the general laws of the State of Maryland.

ARTICLE II

NAME

The name of the corporation (the "Corporation") is:

Arbor Realty Trust, Inc.

ARTICLE III

PURPOSE

The purposes for which the Corporation is formed are to engage in any lawful act or activity (including, without limitation or obligation, engaging in business as a real estate investment trust under the Internal Revenue Code of 1986, as amended, or any successor statute (the "Code")) for which corporations may be organized under the general laws of the State of Maryland as now or hereafter in force. For purposes of these Articles, "REIT" means a real estate investment trust under Sections 856 through 860 of the Code.

ARTICLE IV

PRINCIPAL OFFICE IN STATE AND RESIDENT AGENT

The address of the principal office of the Corporation in the State of Maryland is c/o The Corporation Trust Incorporated, 300 East Lombard Street, Baltimore, Maryland 21202. The name of the resident agent of the Corporation in the State of Maryland is The Corporation Trust Incorporated, 300 East Lombard Street, Baltimore, Maryland 21202. The resident agent is a Maryland corporation.

ARTICLE V

PROVISIONS FOR DEFINING, LIMITING
AND REGULATING CERTAIN POWERS OF THE
CORPORATION AND OF THE STOCKHOLDERS AND DIRECTORS

Section 5.1 Number and Classification of Directors. The business and affairs of the Corporation shall be managed under the direction of the Board of Directors. The number of directors of the Corporation initially shall be five, which number may be increased or decreased pursuant to the Bylaws, but shall never be less than the minimum number required by the Maryland General Corporation Law. The names of the directors who shall serve, and the class in which they shall serve, until their successors are duly elected and qualify are:

Jonathan A. Bernstein - Class I

Joseph Martello - Class I

C. Michael Kojaian - Class II

Ivan Kaufman - Class II

William Helmreich - Class III

These directors may increase the number of directors and may fill any vacancy, whether resulting from an increase in the number of directors or otherwise, on the Board of Directors occurring before the first annual meeting of stockholders in the manner provided in the Bylaws.

The Board shall always include (except during a period not to exceed sixty days following the death, resignation, removal or incapacity of an Independent Director) at least a majority of directors ("Independent Directors") who are not (i) directors, officers, employees or the equivalent of Arbor Commercial Mortgage, LLC, a New York limited liability company, or

its affiliates (excluding from the definition of affiliates for this purpose, if applicable, the Corporation and its subsidiaries) or their subsidiaries or divisions (collectively "ACM"), or (ii) an officer or employee of the Corporation or its subsidiaries or (iii) a relative of a principal executive officer of ACM or the Corporation or its subsidiaries; provided, however, that, notwithstanding the requirement that at least a majority of the directors be Independent Directors, no action otherwise validly taken by the Board during a period in which less than a majority of its members are Independent Directors shall be invalidated or otherwise affected by such circumstance. Notwithstanding anything to the contrary contained in this Section 5.1, only Independent Directors, even if only one, shall have the power to consider and vote upon any matter as to which the Board determines that ACM or any director or officer of the Corporation, other than an Independent Director, has a conflict of interest.

The directors (other than any director elected solely by holders of one or more classes or series of Preferred Stock) shall be classified, with respect to the terms for which they severally hold office, into three classes, with Class I directors to hold office initially for a term expiring at the annual meeting of stockholders in 2004, Class II directors to hold office initially for a term expiring at the annual meeting of stockholders in 2005 and Class III directors to hold office initially for a term expiring at the annual meeting of stockholders in 2006, with the members of each class to hold office until their successors are duly elected and qualify. At each annual meeting of the stockholders, commencing with the 2004 annual meeting, the successors to the class of directors whose term expires at such meeting shall be elected to hold office for a term expiring at the annual meeting of stockholders held in the third year following the year of their election and until their successors are duly elected and qualify.

Section 5.2 Authorization by Board of Stock Issuance. The Board of Directors may authorize the issuance from time to time of shares of stock of the Corporation of any class or series, whether now or hereafter authorized, or securities or rights convertible into shares of its stock of any class or series, whether now or hereafter authorized, for such consideration as the Board of Directors may deem advisable (or without consideration in the case of a stock split or

stock dividend), subject to such restrictions or limitations, if any, as may be set forth in the charter or the Bylaws.

Section 5.3 Preemptive and Appraisal Rights. No holder of any stock or any other security of the Corporation, whether now or hereafter authorized, shall be entitled to exercise the rights of an objecting stockholder under Title 3, Subtitle 2 of the MGCL. Except as may be provided by the Board of Directors in setting the terms of classified or reclassified shares of stock pursuant to Section 6.4 or as may otherwise be provided by contract, no holder of shares of stock of the Corporation shall, as such holder, have any preemptive right to purchase or subscribe for any additional shares of stock of the Corporation or any other security of the Corporation which it may issue or sell.

Section 5.4 Indemnification. The Corporation shall have the power, to the maximum extent permitted by Maryland law in effect from time to time, to obligate itself to indemnify, and to pay or reimburse reasonable expenses in advance of final disposition of a proceeding to, (a) any individual who is a present or former director or officer of the Corporation or (b) any individual who, while a director of the Corporation and at the request of the Corporation, serves or has served as a director, officer, partner or trustee of another corporation, real estate investment trust, partnership, joint venture,

trust, employee benefit plan or any other enterprise from and against any claim or liability to which such person may become subject or which such person may incur by reason of his status as a present or former director or officer of the Corporation. The Corporation shall have the power, with the approval of the Board of Directors, to provide such indemnification and advancement of expenses to a person who served a predecessor of the Corporation in any of the capacities described in (a) or (b) above and to any employee or agent of the Corporation or a predecessor of the Corporation.

Section 5.5 Determinations by Board. The determination as to any of the following matters, made in good faith by or pursuant to the direction of the Board of Directors consistent with the charter and in the absence of actual receipt of an improper benefit in money, property or services or active and deliberate dishonesty established by a court, shall be final and

conclusive and shall be binding upon the Corporation and every holder of shares of its stock: the amount of the net income of the Corporation for any period and the amount of assets at any time legally available for the payment of dividends, redemption of its stock or the payment of other distributions on its stock; the amount of paid-in surplus, net assets, other surplus, annual or other net profit, net assets in excess of capital, undivided profits or excess of profits over losses on sales of assets; the amount, purpose, time of creation, increase or decrease, alteration or cancellation of any reserves or charges and the propriety thereof (whether or not any obligation or liability for which such reserves or charges shall have been created shall have been paid or discharged); the fair value, or any sale, bid or asked price to be applied in determining the fair value, of any asset owned or held by the Corporation; any matter relating to the acquisition, holding and disposition of any assets by the Corporation; or any other matter relating to the business and affairs of the Corporation.

Section 5.6 REIT Qualification. If the Corporation elects to qualify for federal income tax treatment as a REIT, the Board of Directors shall use its reasonable best efforts to take such actions as are necessary or appropriate to preserve the status of the Corporation as a REIT; however, if the Board of Directors determines that it is no longer in the best interests of the Corporation to continue to be qualified as a REIT, the Board of Directors may revoke or otherwise terminate the Corporation's REIT election pursuant to Section 856(g) of the Code. The Board of Directors also may determine that compliance with any restriction or limitation on stock ownership and transfers set forth in Article VII is no longer required for REIT qualification.

Section 5.7 Removal of Directors. Subject to the rights of holders of one or more classes or series of Preferred Stock to elect or remove one or more directors, any director, or the entire Board of Directors, may be removed from office at any time, but only for cause and then only by the affirmative vote of at least two-thirds of the votes entitled to be cast generally in the election of directors. For the purpose of this paragraph, "cause" shall mean, with respect to any particular director, conviction of a felony or a final judgment of a court of competent jurisdiction holding that such director caused demonstrable, material harm to the Corporation through bad

faith or active and deliberate dishonesty.

Section 5.8 Advisor Agreements. Subject to such approval of stockholders and other conditions, if any, as may be required by any applicable statute, rule or regulation, the Board of Directors may authorize the execution and performance by the Corporation of one or more agreements with any person, corporation, association, company, trust, partnership (limited or general) or other organization whereby, subject to the direction and control of the Board of Directors, any such other person, corporation, association, company, trust, partnership (limited or general) or other organization shall render or make available to the Corporation managerial, investment, advisory and/or related services, office space and other services and facilities (including, if deemed advisable by the Board of Directors, the management or supervision of the investments of the Corporation) upon such terms and conditions as may be provided in such agreement or agreements (including, if deemed fair and equitable by the Board of Directors, the compensation payable thereunder by the Corporation).

Section 5.9 Extraordinary Actions. Except as specifically provided in Section 5.7 (relating to removal of directors) and Article VIII, notwithstanding any provision of law permitting or requiring any action to be taken or approved by the affirmative vote of the holders of shares entitled to cast a greater number of votes, any such action shall be effective and valid if taken or approved by the affirmative vote of holders of shares of stock of the Corporation entitled to cast a majority of all the votes entitled to be cast on the matter.

ARTICLE VI

STOCK

Section 6.1 Authorized Shares. The Corporation has authority to issue 600,000,000 shares of stock, consisting of 500,000,000 shares of Common Stock, $.01 par value per share ("Common Stock"), and 100,000,000 shares of Preferred Stock, $.01 par value per share ("Preferred Stock"). The aggregate par value of all authorized shares of stock having par value is $6,000,000. If shares of one class of stock are classified or reclassified into shares of another class of stock pursuant to this Article VI, the number of authorized shares of the former

class shall be automatically decreased and the number of shares of the latter class shall be automatically increased, in each case by the number of shares so classified or reclassified, so that the aggregate number of shares of stock of all classes that the Corporation has authority to issue shall not be more than the total number of shares of stock set forth in the first sentence of this paragraph. The Board of Directors, without any action by the stockholders of the Corporation, may amend the charter from time to time to increase or decrease the aggregate number of shares of stock or the number of shares of stock of any class or series that the Corporation has authority to issue.

Section 6.2 Common Stock. Subject to the provisions of Article VII, each share of Common Stock shall entitle the holder thereof to one vote. The Board of Directors may reclassify any unissued shares of Common Stock from time to time in one or more classes or series of stock.

Section 6.3 Preferred Stock. The Board of Directors may classify any unissued shares of Preferred Stock and reclassify any previously classified but unissued shares of Preferred Stock of any series from time to time in one or more classes or series of stock.

Section 6.4 Classified or Reclassified Shares. Prior to issuance of classified or reclassified shares of any class or series, the Board of Directors by resolution shall: (a) designate that class or series to distinguish it from all other classes and series of stock of the Corporation; (b) specify the number of shares to be included in the class or series; (c) set or change, subject to the provisions of Article VII and subject to the express terms of any class or series of stock of the Corporation outstanding at the time, the preferences, conversion or other rights, voting powers, restrictions, limitations as to dividends or other distributions, qualifications and terms and conditions of redemption for each class or series; and (d) cause the Corporation to file articles supplementary with the State Department of Assessments and Taxation of Maryland ("SDAT"). Any of the terms of any class or series of stock set or changed pursuant to clause (c) of this Section 6.4 may be made dependent upon facts or events ascertainable outside the charter (including determinations by the Board of Directors or other facts or events within the control of

the Corporation) and may vary among holders thereof, provided that the manner in which such facts, events or variations shall operate upon the terms of such class or series of stock is clearly and expressly set forth in the articles supplementary filed with the SDAT.

Section 6.5 Charter and Bylaws. All persons who shall acquire stock in the Corporation shall acquire the same subject to the provisions of the charter and the Bylaws.

ARTICLE VII

RESTRICTION ON TRANSFER AND OWNERSHIP OF SHARES

Section 7.1 Definitions. For the purpose of this Article VII, the following terms shall have the following meanings:

Aggregate Stock Ownership Limit. The term "Aggregate Stock Ownership Limit" shall mean not more than 9.6 percent in value of the aggregate of the outstanding shares of Capital Stock. The value of the outstanding shares of Capital Stock shall be determined by the Board of Directors of the Corporation in good faith, which determination shall be conclusive for all purposes hereof.

Beneficial Ownership. The term "Beneficial Ownership" shall mean ownership of Capital Stock by a Person, whether the interest in the shares of Capital Stock is held directly or indirectly (including by a nominee), and shall include interests that would be treated as owned through the application of Section 544 of the Code, as modified by Section 856(h)(1)(B) of the Code. The terms "Beneficial Owner," "Beneficially Owns" and "Beneficially Owned" shall have the correlative meanings.

Business Day. The term "Business Day" shall mean any day, other than a Saturday or Sunday, that is neither a legal holiday nor a day on which banking institutions in New York City are authorized or required by law, regulation or executive order to close.

Capital Stock. The term "Capital Stock" shall mean all classes or series of stock of the Corporation, including, without limitation, Common Stock and Preferred Stock.

Charitable Beneficiary. The term "Charitable Beneficiary" shall mean one or more beneficiaries of the Trust as determined pursuant to Section 7.3.6, provided that each such

organization must be described in Section 501(c)(3) of the Code and contributions to each such organization must be eligible for deduction under each of Sections 170(b)(1)(A), 2055 and 2522 of the Code.

Charter. The term "Charter" shall mean the charter of the Corporation, as that term is defined in the MGCL.

Code. The term "Code" shall mean the Internal Revenue Code of 1986, as amended from time to time.

Common Stock Ownership Limit. The term "Common Stock Ownership Limit" shall mean not more than 9.6 percent (in value or in number of shares, whichever is more restrictive) of the aggregate of the outstanding shares of Common Stock of the Corporation. The number and value of outstanding shares of Common Stock of the Corporation shall be determined by the Board of Directors of the Corporation in good faith, which determination shall be conclusive for all purposes hereof.

Constructive Ownership. The term "Constructive Ownership" shall mean ownership of Capital Stock by a Person, whether the interest in the shares of Capital Stock is held directly or indirectly (including by a nominee), and shall include interests that would be treated as owned through the application of Section 318(a) of the Code, as modified by Section 856(d)(5) of the Code. The terms "Constructive Owner," "Constructively Owns" and "Constructively Owned" shall have the correlative meanings.

Excepted Holder. The term "Excepted Holder" shall mean a stockholder of the Corporation for whom an Excepted Holder Limit is created by these Articles or by the Board of Directors pursuant to Section 7.2.7.

Excepted Holder Limit. The term "Excepted Holder Limit" shall mean, provided that the affected Excepted Holder agrees to comply with the requirements established by the Board of Directors pursuant to Section 7.2.7, and subject to adjustment pursuant to Section 7.2.8, the limit established by the Board of Directors pursuant to Section 7.2.7, which limit may be expressed, in the discretion of the Board of Directors, as one or more percentages and/or numbers

of shares of stock of the Corporation, and may apply with respect to one or more classes of stock, or to all classes of stock in the aggregate.

Initial Date. The term "Initial Date" shall mean the initial date upon which shares of Capital Stock of the Corporation are initially issued pursuant to that certain Purchase/Placement Agreement, to be dated on or about June 26, 2003, between the Corporation and JMP Securities, LLC.

Market Price. The term "Market Price" on any date shall mean, with respect to any class or series of outstanding shares of Capital Stock, the Closing Price for such Capital Stock on such date. The "Closing Price" on any date shall mean the last sale price for such Capital Stock, regular way, or, in case no such sale takes place on such day, the average of the closing bid and asked prices, regular way, for such Capital Stock, in either case as reported in the principal consolidated transaction reporting system with respect to securities listed or admitted to trading on the NYSE or, if such Capital Stock is not listed or admitted to trading on the NYSE, as reported in The PORTAL Market or, if such Capital Stock is not listed or admitted to trading on the NYSE or The PORTAL Market, on the principal consolidated transaction reporting system with respect to securities listed on the principal national securities exchange on which such Capital Stock is listed or admitted to trading or, if such Capital Stock is not listed or admitted to trading on any national securities exchange, the last quoted price, or, if not so quoted, the average of the high bid and low asked prices in the over-the-counter market, as reported by the The Nasdaq Stock Market, Inc. or, if such system is no longer in use, the principal other automated quotation system that may then be in use or, if such Capital Stock is not quoted by any such organization, the average of the closing bid and asked prices as furnished by a professional market maker making a market in such Capital Stock selected by the Board of Directors of the Corporation or, in the event that no trading price is available for such Capital Stock, the fair market value of the Capital Stock, as determined in good faith by the Board of Directors of the Corporation.

MGCL. The term "MGCL" shall mean the Maryland General Corporation Law,

as amended from time to time.

NYSE. The term "NYSE" shall mean the New York Stock Exchange.

Person. The term "Person" shall mean an individual, corporation, partnership, estate, trust (including a trust qualified under Sections 401(a) or 501(c)(17) of the Code), a portion of a trust permanently set aside for or to be used exclusively for the purposes described in Section 642(c) of the Code, association, private foundation within the meaning of Section 509(a) of the Code, joint stock company or other entity and also includes a group as that term is used for purposes of Section 13(d)(3) of the Securities Exchange Act of 1934, as amended, and a group to which an Excepted Holder Limit applies.

Prohibited Owner. The term "Prohibited Owner" shall mean, with respect to any purported Transfer, any Person who, but for the provisions of Section 7.2.1, would Beneficially Own or Constructively Own shares of Capital Stock, and if appropriate in the context, shall also mean any Person who would have been the record owner of the shares that the Prohibited Owner would have so owned.

REIT. The term "REIT" shall mean a real estate investment trust within the meaning of Section 856 of the Code.

Restriction Termination Date. The term "Restriction Termination Date" shall mean the first day after the Initial Date on which the Corporation determines pursuant to Section 5.6 of the Charter that it is no longer in the best interests of the Corporation to attempt to, or continue to, qualify as a REIT or that compliance with the restrictions and limitations on Beneficial Ownership, Constructive Ownership and Transfers of shares of Capital Stock set forth herein is no longer required in order for the Corporation to qualify as a REIT.

The PORTAL Market. The term "The PORTAL Market" shall mean The PORTAL Market(R), a subsidiary of The Nasdaq Stock Market, Inc.

Transfer. The term "Transfer" shall mean any issuance, sale, transfer, gift, assignment, devise or other disposition, as well as any other event that causes any Person to acquire or change its level of Beneficial Ownership or Constructive Ownership, or any agreement

to take any such action or cause any such event, of Capital Stock or the right to vote or receive dividends on Capital Stock, including (a) the granting or exercise of any option (or any disposition of any option), (b) any disposition of any securities or rights convertible into or exchangeable for Capital Stock or any interest in Capital Stock or any exercise of any such conversion or exchange right and (c) Transfers of interests in other entities that result in changes in Beneficial or Constructive Ownership of Capital Stock; in each case, whether voluntary or involuntary, whether owned of record, Constructively Owned or Beneficially Owned and whether by operation of law or otherwise. The terms "Transferring" and "Transferred" shall have the correlative meanings.

Trust. The term "Trust" shall mean any trust provided for in Section 7.3.1.

Trustee. The term "Trustee" shall mean the Person unaffiliated with the Corporation and a Prohibited Owner that is appointed by the Corporation to serve as trustee of the Trust.

Section 7.2 Capital Stock.

Section 7.2.1 Ownership Limitations.

(a) Basic Restrictions.

(i) During the period commencing on the Initial Date and prior to the Restriction Termination Date (1) No Person, other than an Excepted Holder, shall Beneficially Own or Constructively Own shares of Capital Stock in excess of the Aggregate Stock Ownership Limit, (2) no Person, other than an Excepted Holder, shall Beneficially Own or Constructively Own shares of Common Stock in excess of the Common Stock Ownership Limit and (3) no Excepted Holder shall Beneficially Own or Constructively Own shares of Capital Stock in excess of the Excepted Holder Limit for such Excepted Holder.

(ii) During the period commencing on the Initial Date and prior to the Restriction Termination Date, no Person shall Beneficially or Constructively Own shares of Capital Stock to the extent that such Beneficial or Constructive Ownership of Capital Stock would result in the Corporation being "closely held" within the meaning of Section 856(h)

of the Code (without regard to whether the ownership interest is held during the last half of a taxable year), or otherwise failing to qualify as a REIT (including, but not limited to, Beneficial or Constructive Ownership that would result in the Corporation owning (actually or Constructively) an interest in a tenant that is described in Section 856(d)(2)(B) of the Code if the income derived by the Corporation from such tenant would cause the Corporation to fail to satisfy any of the gross income requirements of Section 856(c) of the Code).

(iii) No Person shall, after January 29, 2004, Transfer any Beneficial Ownership or Constructive Ownership of shares of Capital Stock if, as a result of the Transfer, the Capital Stock would be beneficially owned by less than 100 Persons (determined under the principles of Section 856(a)(5) of the Code).

(b) Transfer in Trust. If any Transfer of shares of Capital Stock (whether or not such Transfer is the result of a transaction entered into through the facilities of the NYSE or any other national securities exchange or automated inter-dealer quotation system) occurs which, if effective, would result in any Person Beneficially Owning or Constructively Owning shares of Capital Stock in violation of Section 7.2.1(a),

(i) then that number of shares of the Capital Stock the Beneficial or Constructive Ownership of which otherwise would cause such Person to violate Section 7.2.1(a) (rounded to the nearest

whole share) shall be automatically transferred to a Trust for the benefit of a Charitable Beneficiary, as described in Section 7.3, effective as of the close of business on the Business Day prior to the date of such Transfer, and such Person shall acquire no rights in such shares; or

(ii) if the transfer to the Trust described in clause (i) of this sentence would not be effective for any reason to prevent the violation of Section 7.2.1(a), then the Transfer of that number of shares of Capital Stock that otherwise would cause any Person to violate Section 7.2.1(a) shall be void ab initio, and the intended transferee shall acquire no rights in such shares of Capital Stock.

(iii) In determining which shares of Capital Stock are to be

transferred to a Trust in accordance with this Section 7.2.1(b) and Section 7.3 hereof, shares shall be so transferred to a Trust in such manner as minimizes the aggregate value of the shares that are transferred to the Trust (except to the extent that the Board of Directors determines that the shares transferred to the Trust shall be those directly or indirectly held or Beneficially Owned or Constructively Owned by a Person or Persons that caused or contributed to the application of this Section 7.2.1(b)), and to the extent not inconsistent therewith, on a pro rata basis.

(iv) To the extent that, upon a transfer of shares of Capital Stock pursuant to this Section 7.2.1(b), a violation of any provision of Section 7.2.1(a) would nonetheless be continuing, (for example where the ownership of shares of Capital Stock by a single Trust would result in the Capital Stock being beneficially owned (determined under the principles of Section 856(a)(5) of the Code) by less than 100 persons), then shares of Capital Stock shall be transferred to that number of Trusts, each having a distinct Trustee and a Charitable Beneficiary or Beneficiaries that are distinct from those of each other Trust, such that there is no violation of any provision of Section 7.2.1(a).

Section 7.2.2 Remedies for Breach. If the Board of Directors of the Corporation or any duly authorized committee thereof shall at any time determine in good faith that a Transfer or other event has taken place that results in a violation of Section 7.2.1 or that a Person intends to acquire or has attempted to acquire Beneficial or Constructive Ownership of any shares of Capital Stock in violation of Section 7.2.1 (whether or not such violation is intended), the Board of Directors or a committee thereof shall take such action as it deems advisable to refuse to give effect to or to prevent such Transfer or other event, including, without limitation, causing the Corporation to redeem shares, refusing to give effect to such Transfer on the books of the Corporation or instituting proceedings to enjoin such Transfer or other event; provided, however, that any Transfer or attempted Transfer or other event in violation of Section 7.2.1 shall automatically result in the transfer to the Trust described above, and, where applicable, such Transfer (or other event) shall be void ab initio as provided above irrespective of any action (or non-action) by the Board of Directors or a committee thereof.

Section 7.2.3 Notice of Restricted Transfer. Any Person who acquires or attempts or intends to acquire Beneficial Ownership or Constructive Ownership of shares of Capital Stock that will or may violate Section 7.2.1(a) or any Person who would have owned shares of Capital Stock that resulted in a transfer to the Trust pursuant to the provisions of Section 7.2.1(b) shall immediately give written notice to the Corporation of such event, or in the case of such a proposed or attempted transaction, give at least 15 days prior written notice, and shall provide to the Corporation such other information as the Corporation may request in order to determine the effect, if any, of such Transfer on the Corporation's status as a REIT.

Section 7.2.4 Owners Required To Provide Information. From the Initial Date and prior to the Restriction Termination Date:

(a) every owner of more than five percent (or such lower percentage as required by the Code or the Treasury Regulations promulgated thereunder) of the outstanding shares of Capital Stock,

within 30 days after the end of each taxable year, shall give written notice to the Corporation stating the name and address of such owner, the number of shares of Capital Stock and other shares of the Capital Stock Beneficially Owned and a description of the manner in which such shares are held. Each such owner shall provide to the Corporation such additional information as the Corporation may request in order to determine the effect, if any, of such Beneficial Ownership on the Corporation's status as a REIT and to ensure compliance with the Aggregate Stock Ownership Limit and the Common Stock Ownership Limit; and

(b) each Person who is a Beneficial or Constructive Owner of Capital Stock and each Person (including the stockholder of record) who is holding Capital Stock for a Beneficial or Constructive Owner shall provide to the Corporation such information as the Corporation may request, in good faith, in order to determine the Corporation's status as a REIT and to comply with requirements of any taxing authority or governmental authority or to determine such compliance.

Section 7.2.5 Remedies Not Limited. Subject to Section 5.6 of the

Charter, nothing contained in this Section 7.2 shall limit the authority of the Board of Directors of the Corporation to take such other action as it deems necessary or advisable to protect the Corporation and the interests of its stockholders in preserving the Corporation's status as a REIT.

Section 7.2.6 Ambiguity. In the case of an ambiguity in the application of any of the provisions of this Section 7.2, Section 7.3, or any definition contained in Section 7.1, the Board of Directors of the Corporation shall have the power to determine the application of the provisions of this Section 7.2 or Section 7.3 or any such definition with respect to any situation based on the facts known to it. In the event Section 7.2 or 7.3 requires an action by the Board of Directors and the Charter fails to provide specific guidance with respect to such action, the Board of Directors shall have the power to determine the action to be taken so long as such action is not contrary to the provisions of Sections 7.1, 7.2 or 7.3.

Section 7.2.7 Exceptions.

(a) Subject to Section 7.2.1(a)(ii), the Board of Directors of the Corporation, in its sole discretion, may exempt a Person from the Aggregate Stock Ownership Limit and the Common Stock Ownership Limit, as the case may be, and may establish or increase an Excepted Holder Limit for such Person if:

(i) the Board of Directors obtains such representations and undertakings from such Person as are reasonably necessary to ascertain that no individual's Beneficial or Constructive Ownership of such shares of Capital Stock will violate Section 7.2.1(a)(ii);

(ii) such Person does not and represents that it will not own, actually or Constructively, an interest in a tenant of the Corporation (or a tenant of any entity owned or controlled by the Corporation) that would cause the Corporation to own, actually or Constructively, more than a 9.9% interest (as set forth in Section 856(d)(2)(B) of the Code) in such tenant and the Board of Directors obtains such representations and undertakings from such Person as are reasonably necessary to ascertain this fact (for this purpose, a tenant from whom the Corporation (or an entity owned or controlled by the Corporation) derives (and is expected to

continue to derive) a sufficiently small amount of revenue such that, in the opinion of the Board of Directors of the Corporation, rent from such tenant would not adversely affect the Corporation's ability to qualify as a REIT, shall not be treated as a tenant of the Corporation); and

(iii) such Person agrees that any violation or attempted violation of any such representation or undertaking (or other action which is contrary to the restrictions contained in Sections 7.2.1 through 7.2.6) will result in such shares of Capital Stock being automatically transferred to a Trust in accordance with Sections 7.2.1(b) and 7.3.

(b) Prior to granting any exception pursuant to Section 7.2.7(a), the Board of Directors of the Corporation may require a ruling from the Internal Revenue Service, or an opinion of counsel, in either case in form and substance satisfactory to the Board of Directors in its sole discretion, as it may deem necessary or advisable in order to determine or ensure the Corporation's status as a REIT. Notwithstanding the receipt of any ruling or opinion, the Board of Directors may impose such conditions or restrictions as it deems appropriate in connection with granting such exception.

(c) Subject to Section 7.2.1(a)(ii), an underwriter which participates in a public offering or a private placement of Capital Stock (or securities convertible into or exchangeable for Capital Stock) may Beneficially Own or Constructively Own shares of Capital Stock (or securities convertible into or exchangeable for Capital Stock) in excess of the Aggregate Stock Ownership Limit, the Common Stock Ownership Limit, or both such limits, but only to the extent necessary to facilitate such public offering or private placement.

(d) The Board of Directors may only reduce the Excepted Holder Limit for an Excepted Holder: (1) with the written consent of such Excepted Holder at any time, or (2) pursuant to the terms and conditions of any agreement or undertaking entered into with such Excepted Holder in connection with the establishment of the Excepted Holder Limit for that Excepted Holder. No Excepted Holder Limit shall be reduced to a percentage or amount that is less than the Common Stock Ownership Limit.

Section 7.2.8 Increase in Aggregate Stock Ownership and Common Stock

Ownership Limits. The Board of Directors may from time to time increase the Common Stock Ownership Limit and the Aggregate Stock Ownership Limit.

Section 7.2.9 Legend. Each certificate for shares of Capital Stock shall bear substantially the following legend:

> The shares represented by this certificate are subject to restrictions on Beneficial and Constructive Ownership and Transfer for the purpose of the Corporation's maintenance of its status as a Real Estate Investment Trust under the Internal Revenue Code of 1986, as amended (the "Code"). Subject to certain further restrictions and except as expressly provided in the Corporation's Charter, (i) no Person may Beneficially or Constructively Own shares of the Corporation's Common Stock in excess of 9.6 percent (in value or number of shares) of the outstanding shares of Common Stock of the Corporation unless such Person is an Excepted Holder (in which case the Excepted Holder Limit shall be applicable); (ii) no Person may Beneficially or Constructively Own shares of Capital Stock of the Corporation in excess of 9.6 percent of the value of the total outstanding shares of Capital Stock of the Corporation, unless such Person is an Excepted Holder (in which case the Excepted Holder Limit shall be applicable); (iii) no Person may Beneficially or Constructively Own Capital Stock that would result in the Corporation being "closely held" under Section 856(h) of the Code or otherwise cause the Corporation to fail to qualify as a REIT; and (iv) no Person may Transfer shares of Capital Stock if such Transfer would result in the Capital Stock of the Corporation being owned by fewer than 100 Persons. Any Person who Beneficially or Constructively Owns or attempts to Beneficially or Constructively Own shares of Capital Stock which causes or will cause a Person to Beneficially or Constructively Own shares of Capital Stock in excess or in violation of the above limitations must immediately notify the Corporation. If any of the restrictions on transfer or ownership are violated, the shares of Capital Stock represented hereby will be automatically transferred to a Trustee of a Trust for the benefit of one or more Charitable Beneficiaries or, upon the occurrence of certain events, attempted Transfers in violation of the restrictions described above may be void ab initio. All capitalized terms in this legend have the meanings defined in

the charter of the Corporation, as the same may be amended from time to time, a copy of which, including the restrictions on transfer and ownership, will be furnished to each holder of Capital Stock of the Corporation on request and without charge.

Instead of the foregoing legend, the certificate may state that the Corporation will furnish a full statement about certain restrictions on transferability to a stockholder on request and without charge.

Section 7.3 Transfer of Capital Stock in Trust.

Section 7.3.1 Ownership in Trust. Upon any purported Transfer or other event described in Section 7.2.1(b) that would result in a transfer of shares of Capital Stock to a Trust, such shares of Capital Stock shall be deemed to have been transferred to the Trustee as trustee of a Trust for the exclusive benefit of one or more Charitable Beneficiaries. Such transfer to the Trustee shall be deemed to be effective as of the close of business on the Business Day prior to the purported Transfer or other event that results in the transfer to the Trust pursuant to Section 7.2.1(b). The Trustee shall be appointed by the Corporation and shall be a Person unaffiliated with the Corporation and any Prohibited Owner. Each Charitable Beneficiary shall be designated by the Corporation as provided in Section 7.3.6.

Section 7.3.2 Status of Shares Held by the Trustee. Shares of Capital Stock held by the Trustee shall be issued and outstanding shares of Capital Stock of the Corporation. The Prohibited Owner shall have no rights in the shares held by the Trustee. The Prohibited Owner shall not benefit economically from ownership of any shares held in trust by the Trustee, shall have no rights to dividends or other distributions and shall not possess any rights to vote or other rights attributable to the shares held in the Trust.

Section 7.3.3 Dividend and Voting Rights. The Trustee shall have all voting rights and rights to dividends or other distributions with respect to shares of Capital Stock held in the Trust, which rights shall be exercised for the exclusive benefit of the Charitable Beneficiary. Any dividend or other distribution paid prior to the discovery by the Corporation that the shares of Capital Stock have been transferred to the Trustee shall be paid by the recipient of such dividend or distribution to the Trustee upon demand and any dividend or other distribution authorized but unpaid shall be paid when due to the Trustee. Any dividend or

distribution so paid to the Trustee shall be held in trust for the Charitable Beneficiary. The Prohibited Owner shall have no voting rights with respect to shares held in the Trust and, subject to Maryland law, effective as of the date that the shares of Capital Stock have been transferred to the Trustee, the Trustee shall have the authority (at the Trustee's sole discretion) (i) to rescind as void any vote cast by a Prohibited Owner prior to the discovery by the Corporation that the shares of Capital Stock have been transferred to the Trustee and (ii) to recast such vote in accordance with the desires of the Trustee acting for the benefit of the Charitable Beneficiary; provided, however, that if the Corporation has already taken irreversible corporate action, then the Trustee shall not have the authority to rescind and recast such vote. Notwithstanding the provisions of this Article VII, until the Corporation has received notification that shares of Capital Stock have been transferred into a Trust, the Corporation shall be entitled to rely on its share transfer and other stockholder records for purposes of preparing lists of stockholders entitled to vote at meetings, determining the validity and authority of proxies and otherwise conducting votes of stockholders.

Section 7.3.4 Sale of Shares by Trustee. Within 20 days of receiving notice from the Corporation that shares of Capital Stock have been transferred to the Trust, the Trustee of the Trust shall sell the shares held in the Trust to a person, designated by the Trustee, whose ownership of the shares will not violate the ownership limitations set forth in Section 7.2.1(a). Upon such sale, the interest of the Charitable Beneficiary in the shares sold shall terminate and the Trustee shall distribute the net proceeds of the sale to the Prohibited Owner and to the Charitable Beneficiary as provided in this

Section 7.3.4. The Prohibited Owner shall receive the lesser of (1) the price paid by the Prohibited Owner for the shares or, if the Prohibited Owner did not give value for the shares in connection with the event causing the shares to be held in the Trust (e.g., in the case of a gift, devise or other such transaction), the Market Price of the shares on the day of the event causing the shares to be held in the Trust and (2) the price per share received by the Trustee from the sale or other disposition of the shares held in the Trust. Any net sales proceeds in excess of the amount payable to the Prohibited Owner shall be

immediately paid to the Charitable Beneficiary. If, prior to the discovery by the Corporation that shares of Capital Stock have been transferred to the Trustee, such shares are sold by a Prohibited Owner, then (i) such shares shall be deemed to have been sold on behalf of the Trust and (ii) to the extent that the Prohibited Owner received an amount for such shares that exceeds the amount that such Prohibited Owner was entitled to receive pursuant to this Section 7.3.4, such excess shall be paid to the Trustee upon demand.

Section 7.3.5 Purchase Right in Stock Transferred to the Trustee. Shares of Capital Stock transferred to the Trustee shall be deemed to have been offered for sale to the Corporation, or its designee, at a price per share equal to the lesser of (i) the price per share in the transaction that resulted in such transfer to the Trust (or, in the case of a devise or gift, the Market Price at the time of such devise or gift) and (ii) the Market Price on the date the Corporation, or its designee, accepts such offer. The Corporation shall have the right to accept such offer until the Trustee has sold the shares held in the Trust pursuant to Section 7.3.4. Upon such a sale to the Corporation, the interest of the Charitable Beneficiary in the shares sold shall terminate and the Trustee shall distribute the net proceeds of the sale to the Prohibited Owner.

Section 7.3.6 Designation of Charitable Beneficiaries. By written notice to the Trustee, the Corporation shall designate one or more nonprofit organizations to be the Charitable Beneficiary of the interest in the Trust such that (i) the shares of Capital Stock held in the Trust would not violate the restrictions set forth in Section 7.2.1(a) in the hands of such Charitable Beneficiary and (ii) each such organization must be described in Section 501(c)(3) of the Code and contributions to each such organization must be eligible for deduction under each of Sections 170(b)(1)(A), 2055 and 2522 of the Code.

Section 7.4 Exchange Transactions. Nothing in this Article VII shall preclude the settlement of any transaction entered into through the facilities of the NYSE, The PORTAL Market or any other national securities exchange or automated inter-dealer quotation system. The fact that the settlement of any transaction occurs shall not negate the effect of any other provision of this Article VII and any transferee in such a transaction shall be subject to all of the

provisions and limitations set forth in this Article VII.

Section 7.5 Enforcement. The Corporation is authorized specifically to seek equitable relief, including injunctive relief, to enforce the provisions of this Article VII.

Section 7.6 Non-Waiver. No delay or failure on the part of the Corporation or the Board of Directors in exercising any right hereunder shall operate as a waiver of any right of the Corporation or the Board of Directors, as the case may be, except to the extent specifically waived in writing.

ARTICLE VIII

AMENDMENTS

The Corporation reserves the right from time to time to make any amendment to its charter, now or hereafter authorized by law, including any amendment altering the terms or contract rights, as expressly set forth in the charter, of any shares of outstanding stock. All rights and powers conferred by the charter on stockholders, directors and officers are granted subject to this

reservation. Except as otherwise provided in the charter, any amendment to the charter shall be valid only if approved by the affirmative vote of a majority of all the votes entitled to be cast on the matter. However, any amendment to Section 5.1, Section 5.7 or to this sentence of the charter shall be valid only if approved by the affirmative vote of two-thirds of all the votes entitled to be cast on the matter.

ARTICLE IX

LIMITATION OF LIABILITY

To the maximum extent that Maryland law in effect from time to time permits limitation of the liability of directors and officers of a corporation, no director or officer of the Corporation shall be liable to the Corporation or its stockholders for money damages. Neither the amendment nor repeal of this Article IX, nor the adoption or amendment of any other provision of the charter or Bylaws inconsistent with this Article IX, shall apply to or affect in any respect the applicability of the preceding sentence with respect to any act or failure to act which occurred prior to such amendment, repeal or adoption.

IN WITNESS WHEREOF, I have signed these Articles of Incorporation and acknowledge the same to be my act on this 24th day of June, 2003.

/s/ James J. Hanks, Jr.

James J. Hanks, Jr.

EXHIBIT 3.2

ARBOR REALTY TRUST, INC.

ARTICLES SUPPLEMENTARY

Arbor Realty Trust, Inc., a Maryland corporation (the "Corporation"), hereby certifies to the State Department of Assessments and Taxation of Maryland that:

FIRST: Under a power contained in Section 6.3 of Article VI of the charter of the Corporation (the "Charter"), the Board of Directors of the Corporation (the "Board of Directors"), by unanimous written consent dated June 30, 2003, reclassified and designated 5,000,000 shares of Preferred Stock (as defined in the Charter) as 5,000,000 shares (the "Shares") of Special Voting Preferred Stock, $.01 par value per share, with the voting powers, restrictions, limitations as to dividends and other distributions, qualifications and terms and conditions of redemption as set forth as follows, which upon any restatement of the Charter shall be made part of Article VI of the Charter, with any necessary or appropriate changes to the enumeration or lettering of sections or subsections hereof.

1. Designation and Amount.

The shares of such class shall be designated as "Special Voting Preferred Stock" and the number of shares constituting such class shall be 5,000,000. Such number of shares may be increased or decreased by resolution of the Board of Directors and filing of articles supplementary in accordance with the Maryland General Corporation Law stating that such increase or decrease has been so authorized; provided, however, that no decrease shall reduce the number of shares of Special Voting Preferred Stock to a number less than the number of shares of Special Voting Preferred Stock then outstanding.

2. Definitions.

For purposes of the Special Voting Preferred Stock, the following terms shall have the meanings indicated:

"ACM" shall mean Arbor Commercial Mortgage, LLC, a New York limited liability company, and any successor thereof.

"Adjustment Factor" shall have the meaning assigned to such term in the Partnership Agreement and initially shall be one.

"Affiliate" shall mean a Person that directly, or indirectly through one or more intermediaries, controls or is controlled by, or is under common control with, the Person specified.

"Board of Directors" shall mean the Board of Directors of the Corporation or any committee authorized by such Board of Directors to perform any of its responsibilities with respect to the Special Voting Preferred Stock.

"Common Stock" shall mean the Common Stock, $.01 par value per share, of the Corporation.

"Operating Partnership" shall mean Arbor Realty Limited Partnership, a Delaware limited partnership, and any successor thereof.

"Pairing Agreement" shall mean the Pairing Agreement, dated as of the date hereof, by and among the Corporation, Arbor Realty LPOP, Inc, Arbor Realty GPOP, Inc., ACM and the Operating Partnership, as may be amended from time to time.

"Partnership Agreement" shall mean the Agreement of Limited Partnership of the Operating Partnership, as the same may be amended from time to time.

"Partnership Common Units" shall have the meaning set forth in the Partnership Agreement.

"Person" shall mean an individual or a corporation,

partnership, trust, unincorporated organization, association, limited liability company or other entity.

"Preferred Stock" shall mean the Preferred Stock, $.01 par value per share, of the Corporation.

"UPREIT Combination Transaction" shall mean any consolidation, merger, combination or other transaction consummated by the Corporation in connection with which the holders of Partnership Common Units will either (i) continue to hold Partnership Common Units or (ii) will have their Partnership Common Units converted or changed into or exchanged for partnership interests and/or other securities of another operating partnership in an UPREIT structure.

3. Dividends and Distributions.

Except as set forth in Section 7 hereof, the holders of shares of Special Voting Preferred Stock shall not be entitled to any regular or special dividend payments. Without limiting the foregoing, the holders of shares of Special Voting Preferred Stock shall not be entitled to any dividends or other distributions declared or paid with respect to the shares of Common Stock or any other stock of the Corporation.

4. Voting Rights.

With respect to all matters submitted to a vote of the stockholders of the

Corporation, each share of Special Voting Preferred Stock shall entitle the holder thereof to a number of votes equal to the Adjustment Factor in effect on the record date for determining the holders of stock of the Corporation entitled to vote on such matter. The holders of shares of Special Voting Preferred Stock shall vote collectively with the holders of shares of Common Stock as one class on all matters submitted to a vote of stockholders of the Corporation, and, except as expressly set forth in Section 9 hereof, the holders of shares of Special Voting Preferred Stock shall have no other voting rights, as a separate class or other otherwise, including any rights to vote as a class with respect to any extraordinary corporate action such as a merger, consolidation, dissolution, liquidation or the like.

5. Pairing.

The Corporation shall not issue or agree to issue any shares of Special Voting Preferred Stock to any Person unless effective provision has been made for the simultaneous issuance by the Operating Partnership to the same Person of the same number of Partnership Common Units, and for the pairing of such shares of Special Voting Preferred Stock and Partnership Common Units in accordance with the Pairing Agreement. Until the limitation on transfer provided for in Section 1 of the Pairing Agreement shall be terminated in accordance with the terms of the Pairing Agreement:

a. No share of Special Voting Preferred Stock shall be transferable, and no such share shall be transferred on the stock transfer books of the Corporation, except in accordance with the provisions of the Pairing Agreement.

b. A legend shall be placed on the face of each certificate representing ownership of shares of Special Voting Preferred Stock referring to the restriction on transfer set forth herein and in the Pairing Agreement.

6. Reacquired Shares.

Any shares of Special Voting Preferred Stock redeemed, purchased or otherwise acquired by the Corporation in any manner whatsoever shall be cancelled automatically, shall cease to be outstanding and shall become authorized but unissued shares of Special Voting Preferred Stock, and the former holder or holders thereof shall have no further rights (hereunder or otherwise) with respect to such shares (except as provided in Section 8 hereof). Any shares of Special Voting Preferred Stock that are cancelled in accordance with the preceding sentence may be reissued or reclassified by the Corporation in accordance with the applicable provisions of the Charter.

7. Liquidation, Dissolution or Winding Up.

In the event of any liquidation, dissolution or winding up of the affairs of the Corporation, whether voluntary or involuntary, before any assets of the Corporation shall be distributed, paid or set aside for the holders of any equity securities ranking junior to the Special

Voting Preferred Stock as to the distribution of assets upon liquidation, dissolution or winding up of the Corporation, the Corporation shall pay to the holders of shares of Special Voting Preferred Stock $.01 per share of Special Voting Preferred Stock. For the purposes of this Section 7, (i) a consolidation or merger of the Corporation with one or more entities, (ii) a sale or transfer of all or substantially all of the Corporation's assets, or (iii) a statutory share exchange shall not be deemed to be a liquidation, dissolution or winding up, voluntary or involuntary, of the Corporation.

8. Cancellation and Redemption.

(a) In the event that the Operating Partnership is party to any consolidation, merger, combination or other transaction, other than in connection with an UPREIT Combination Transaction, pursuant to which the Partnership Common Units are converted or changed into or exchanged for stock and/or other securities of any other entity and/or cash or any other property, then in any such case the shares of Special Voting Preferred Stock shall be concurrently redeemed by the Corporation, out of assets legally available therefor from the distribution received by the Corporation pursuant to Section 4.a of the Pairing Agreement, at a redemption price payable in cash equal to $.01 per share of Special Voting Preferred Stock, shall be cancelled automatically and cease to be outstanding and shall become authorized but unissued shares of Special Voting Preferred Stock as contemplated by Section 6 above, and thereafter the former holders thereof shall have no further rights (hereunder or otherwise) with respect to such shares (except the rights to receive the cash payable upon such redemption, without interest thereon, upon surrender and endorsement of their certificates if so required).

(b) If at any time any Qualifying Person (as defined in the Partnership Agreement) elects to have redeemed, pursuant to Section 8.6 of the Partnership Agreement, any Partnership Common Unit that is paired with a share of Special Voting Preferred Stock and such Partnership Common Unit is redeemed by the Operating Partnership under Section 8.6.A of the Partnership Agreement, then concurrently with the redemption by the Operating Partnership of any such Partnership Common Units in accordance with the terms and conditions of the Partnership Agreement, the shares of Special Voting Preferred Stock paired with the Partnership Common Units being so redeemed shall be concurrently redeemed by the Corporation, out of assets legally available therefor from the distribution received by the Corporation pursuant to Section 4.a of the Pairing Agreement, at a redemption price payable in cash equal to $.01 per share of Special Voting Preferred Stock, shall be cancelled automatically and cease to be outstanding and shall become authorized but unissued shares of Special Voting Preferred Stock as contemplated by Section 6 above, and thereafter the former holders thereof shall have no further rights (hereunder or otherwise) with respect to such shares (except the rights to receive the cash payable upon such redemption, without interest thereon, upon surrender and endorsement of their certificates if so required).

(c) If at any time any Qualifying Person elects to have redeemed, pursuant to Section 8.6 of the Partnership Agreement, any Partnership Common Unit that is paired with a share of Special Voting Preferred Stock and the Corporation exercises its rights under Section

8.6.B of the Partnership Agreement to acquire any or all of such Partnership Common Units in exchange for shares of Common Stock, then concurrently with the acquisition by the Corporation of any such Partnership Common Units in exchange for shares of Common Stock in accordance with the terms and conditions of the Partnership Agreement, the shares of Special Voting Preferred Stock paired with the Partnership Common Units being so acquired shall be concurrently redeemed by the Corporation, out of assets legally available therefor from the distribution received by the Corporation pursuant to Section 4.a of the Pairing Agreement, at a redemption price payable in cash equal to $.01 per share of Special Voting Preferred Stock, shall be cancelled automatically and cease to be outstanding and shall become authorized but unissued shares of Special Voting Preferred Stock as contemplated by Section 6 above, and thereafter the former holders

thereof shall have no further rights (hereunder or otherwise) with respect to such shares (except the rights to receive the cash payable upon such redemption, without interest thereon, upon surrender and endorsement of their certificates if so required).

9. Amendments and Mergers.

The Charter shall not be amended in any manner that would materially alter or change the powers, preferences or special rights of the Special Voting Preferred Stock, as set forth herein, so as to affect them adversely without the affirmative vote of the holders of at least a majority of the outstanding shares of Special Voting Preferred Stock, voting separately as a class; provided, however, that the amendment of the provisions of the Charter so as to authorize or create, or to increase the authorized amount of, any equity securities of the Corporation shall not be deemed to materially and adversely affect the preferences, conversion and other rights, voting powers, restrictions, limitations as to dividends and other distributions, qualifications and terms and conditions of redemption of the Special Voting Preferred Stock.

The Corporation shall not consummate any UPREIT Combination Transaction without the affirmative vote of the holders of at least a majority of the outstanding shares of Special Voting Preferred Stock, voting separately as a class, unless (i) the Corporation is the surviving entity, or (ii) in connection with any UPREIT Combination Transaction in which the Corporation is not the surviving entity if, as result of the merger or consolidation, the holders of Special Voting Preferred Stock receive shares of stock or beneficial interest or other equity securities with preferences, rights and privileges not materially inferior to the preferences, rights and privileges of the Special Voting Preferred Stock.

10. Fractional Shares.

Special Voting Preferred Stock may be issued in fractions of a share which shall entitle the holder, in proportion to such holder's fractional share, to exercise voting rights and to have the benefit of all other rights of holders of Special Voting Preferred Stock.

SECOND: The Shares have been reclassified and designated by the Board of Directors under the authority contained in the Charter.

THIRD: These Articles Supplementary have been approved by the Board of Directors in the manner and by the vote required by law.

FOURTH: The undersigned President of the Corporation acknowledges these Articles Supplementary to be the corporate act of the Corporation and, as to all matters or facts required to be verified under oath, the undersigned President acknowledges that, to the best of his knowledge, information and belief, these matters and facts are true in all material respects and that this statement is made under the penalties for perjury.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the Corporation has caused these Articles Supplementary to be executed under seal in its name and on its behalf by its President, and attested to by its Secretary, on this 1st day of July, 2003.

ARBOR REALTY TRUST, INC.

By: /s/ Ivan Kaufman (SEAL)

Name: Ivan Kaufman
Title: President

ATTEST:

/s/ Frederick C. Herbst

Name: Frederick C. Herbst
Title: Secretary

EXHIBIT 3.3

ARBOR REALTY TRUST, INC.

BYLAWS

ARTICLE I

OFFICES

Section 1. PRINCIPAL OFFICE. The principal office of the Corporation in the State of Maryland shall be located at such place as the Board of Directors may designate.

Section 2. ADDITIONAL OFFICES. The Corporation may have additional offices, including a principal executive office, at such places as the Board of Directors may from time to time determine or the business of the Corporation may require.

ARTICLE II

MEETINGS OF STOCKHOLDERS

Section 1. PLACE. All meetings of stockholders shall be held at the principal executive office of the Corporation or at such other place as shall be set by the Board of Directors and stated in the notice of the meeting.

Section 2. ANNUAL MEETING. An annual meeting of the stockholders for the election of directors and the transaction of any business within the powers of the Corporation shall be held on a date and at the time set by the Board of Directors during the month of May in each year.

Section 3. SPECIAL MEETINGS.

(a) General. The chairman of the board, president, chief executive officer or Board of Directors may call a special meeting of the stockholders. Subject to subsection (b) of this Section 3, a special meeting of stockholders shall also be called by the secretary of the Corporation upon the written request of stockholders entitled to cast not less than a majority of all the votes entitled to be cast at such meeting.

(b) Stockholder Requested Special Meetings. (1) Any stockholder of record seeking to have stockholders request a special meeting shall, by sending written notice to the secretary (the "Record Date Request Notice") by registered mail, return receipt requested, request the Board of Directors to fix a record date to determine the stockholders entitled to request a special meeting (the "Request Record Date"). The Record Date Request Notice shall set forth the purpose of the meeting and the matters proposed to be acted on at it, shall be signed by one or more stockholders of record as of the date of signature (or their agents duly authorized in writing), shall bear the date of signature of

each such stockholder (or such agent) and shall set forth all information relating to each such stockholder that must be disclosed in solicitations of proxies for election of directors in an election contest (even if an election contest is not involved), or is otherwise required, in each case pursuant to Regulation 14A (or any successor provision) under the Securities Exchange Act of 1934, as amended (the "Exchange Act"). Upon receiving the Record Date Request Notice, the Board of Directors may fix a Request Record Date. The Request Record Date shall not precede and shall not be more than ten days after the close of business on the date on which the resolution fixing the Request Record Date is adopted by the Board of Directors. If the Board of Directors, within ten days after the date on which a valid Record Date Request Notice is received, fails to adopt a resolution fixing the Request Record Date and make a public announcement of such Request Record Date, the Request Record Date shall be the close of business on the tenth day after the first date on which the Record Date Request Notice is received by the secretary.

(2) In order for any stockholder to request a special meeting,

one or more written requests for a special meeting signed by stockholders of record (or their agents duly authorized in writing) as of the Request Record Date entitled to cast not less than a majority (the "Special Meeting Percentage") of all of the votes entitled to be cast at such meeting (the "Special Meeting Request") shall be delivered to the secretary. In addition, the Special Meeting Request shall set forth the purpose of the meeting and the matters proposed to be acted on at it (which shall be limited to the matters set forth in the Record Date Request Notice received by the secretary), shall bear the date of signature of each such stockholder (or such agent) signing the Special Meeting Request, shall set forth the name and address, as they appear in the Corporation's books, of each stockholder signing such request (or on whose behalf the Special Meeting Request is signed), the class, series and number of all shares of stock of the Corporation which are owned by each such stockholder, and the nominee holder for, and number of, shares owned by such stockholder beneficially but not of record, shall be sent to the secretary by registered mail, return receipt requested, and shall be received by the secretary within 60 days after the Request Record Date. Any requesting stockholder may revoke his, her or its request for a special meeting at any time by written revocation delivered to the secretary.

(3) The secretary shall inform the requesting stockholders of the reasonably estimated cost of preparing and mailing the notice of meeting (including the Corporation's proxy materials). The secretary shall not be required to call a special meeting upon stockholder request and such meeting shall not be held unless, in addition to the documents required by paragraph (2) of this Section 3(b), the secretary receives payment of such reasonably estimated cost prior to the mailing of any notice of the meeting.

(4) Except as provided in the next sentence, any special meeting shall be held at such place, date and time as may be designated by the president, chief executive officer or Board of Directors, whoever has called the meeting. In the case of any special meeting called by the secretary upon the request of stockholders (a "Stockholder Requested Meeting"), such meeting shall be held at such place, date and time as may be designated by the Board of Directors; provided, however, that the date of any Stockholder Requested Meeting shall be not more than 90 days after the record date for such meeting (the "Meeting Record Date"); and provided further that if the Board of Directors fails to designate, within ten days after the date that a valid Special Meeting Request is actually received by the secretary (the "Delivery Date"), a date and time for a Stockholder Requested Meeting, then such meeting shall be held at 2:00 p.m. local time on the 90th day after the Meeting

Record Date or, if such 90th day is not a Business Day (as defined below), on the first preceding Business Day; and provided further that in the event that the Board of Directors fails to designate a place for a Stockholder Requested Meeting within ten days after the Delivery Date, then such meeting shall be held at the principal executive office of the Corporation. In fixing a date for any special meeting, the president, chief executive officer or Board of Directors may consider such factors as he, she or it deems relevant within the good faith exercise of business judgment, including, without limitation, the nature of the matters to be considered, the facts and circumstances surrounding any request for the meeting and any plan of the Board of Directors to call an annual meeting or a special meeting. In the case of any Stockholder Requested Meeting, if the Board of Directors fails to fix a Meeting Record Date that is a date within 30 days after the Delivery Date, then the close of business on the 30th day after the Delivery Date shall be the Meeting Record Date.

(5) If written revocations of requests for the special meeting have been delivered to the secretary and the result is that stockholders of record (or their agents duly authorized in writing), as of the Request Record Date, entitled to cast less than the Special Meeting Percentage have delivered, and not revoked, requests for a special meeting to the secretary, the secretary shall: (i) if the notice of meeting has not already been mailed, refrain from mailing the notice of the meeting and send to all requesting stockholders who have not revoked such requests written notice of any revocation of a request for the special meeting, or (ii) if the notice of meeting has been mailed and if the secretary first sends to all requesting stockholders who have not revoked requests for a special meeting written notice of any revocation of a request for the special meeting and written notice of the secretary's intention to revoke the notice of the meeting, revoke the notice of the meeting at any time before ten days before the commencement of the meeting. Any request for a special meeting received after a revocation by the secretary of a notice of a meeting

shall be considered a request for a new special meeting.

(6) The chairman of the Board of Directors, the president or the Board of Directors may appoint regionally or nationally recognized independent inspectors of elections to act as the agent of the Corporation for the purpose of promptly performing a ministerial review of the validity of any purported Special Meeting Request received by the secretary. For the purpose of permitting the inspectors to perform such review, no such purported request shall be deemed to have been delivered to the secretary until the earlier of (i) five Business Days after receipt by the secretary of such purported request and (ii) such date as the independent inspectors certify to the Corporation that the valid requests received by the secretary represent at least a majority of the issued and outstanding shares of stock that would be entitled to vote at such meeting. Nothing contained in this paragraph (6) shall in any way be construed to suggest or imply that the Corporation or any stockholder shall not be entitled to contest the validity of any request, whether during or after such five Business Day period, or to take any other action (including, without limitation, the commencement, prosecution or defense of any litigation with respect thereto, and the seeking of injunctive relief in such litigation).

(7) For purposes of these Bylaws, "Business Day" shall mean any day other than a Saturday, a Sunday or a day on which banking institutions in the State of New York are authorized or obligated by law or executive order to close.

Section 4. NOTICE. Not less than ten nor more than 90 days before each meeting of stockholders, the secretary shall give to each stockholder entitled to vote at such meeting

and to each stockholder not entitled to vote who is entitled to notice of the meeting written or printed notice stating the time and place of the meeting and, in the case of a special meeting or as otherwise may be required by any statute, the purpose for which the meeting is called, either by mail, by presenting it to such stockholder personally, by leaving it at the stockholder's residence or usual place of business or by any other means permitted by Maryland law. If mailed, such notice shall be deemed to be given when deposited in the United States mail addressed to the stockholder at the stockholder's address as it appears on the records of the Corporation, with postage thereon prepaid.

Any business of the Corporation may be transacted at an annual meeting of stockholders without being specifically designated in the notice, except such business as is required by any statute to be stated in such notice. No business shall be transacted at a special meeting of stockholders except as specifically designated in the notice.

Section 5. ORGANIZATION AND CONDUCT. Every meeting of stockholders shall be conducted by an individual appointed by the Board of Directors to be chairman of the meeting or, in the absence of such appointment, by the chairman of the board or, in the case of a vacancy in the office or absence of the chairman of the board, by one of the following officers present at the meeting: the vice chairman of the board, if there be one, the president, the vice presidents in their order of rank and seniority, or, in the absence of such officers, a chairman chosen by the stockholders by the vote of a majority of the votes cast by stockholders present in person or by proxy. The secretary, or, in the secretary's absence, an assistant secretary, or in the absence of both the secretary and assistant secretaries, a person appointed by the Board of Directors or, in the absence of such appointment, a person appointed by the chairman of the meeting shall act as secretary. In the event that the secretary presides at a meeting of the stockholders, an assistant secretary, or in the absence of assistant secretaries, an individual appointed by the Board of Directors or the chairman of the meeting, shall record the minutes of the meeting. The order of business and all other matters of procedure at any meeting of stockholders shall be determined by the chairman of the meeting. The chairman of the meeting may prescribe such rules, regulations and procedures and take such action as, in the discretion of such chairman, are appropriate for the proper conduct of the meeting, including, without limitation, (a) restricting admission to the time set for the commencement of the meeting; (b) limiting attendance at the meeting to stockholders of record of the Corporation, their duly authorized proxies and other such individuals as the chairman of the meeting may determine; (c) limiting participation at the meeting on any matter to stockholders of record of the Corporation entitled to vote on such matter, their duly authorized proxies and other such individuals as the chairman of the

meeting may determine; (d) limiting the time allotted to questions or comments by participants; (e) maintaining order and security at the meeting; (f) removing any stockholder or any other individual who refuses to comply with meeting procedures, rules or guidelines as set forth by the chairman of the meeting; and (g) recessing or adjourning the meeting to a later date and time and place announced at the meeting. Unless otherwise determined by the chairman of the meeting, meetings of stockholders shall not be required to be held in accordance with the rules of parliamentary procedure.

Section 6. QUORUM. At any meeting of stockholders, the presence in person or by proxy of stockholders entitled to cast a majority of all the votes entitled to be cast at such meeting shall constitute a quorum; but this section shall not affect any requirement under any statute or the charter of the Corporation for the vote necessary for the adoption of any measure. If, however,

such quorum shall not be present at any meeting of the stockholders, the chairman of the meeting or the stockholders entitled to vote at such meeting, present in person or by proxy, shall have the power to adjourn the meeting from time to time to a date not more than 120 days after the original record date without notice other than announcement at the meeting. At such adjourned meeting at which a quorum shall be present, any business may be transacted which might have been transacted at the meeting as originally notified.

The stockholders present either in person or by proxy, at a meeting which has been duly called and convened, may continue to transact business until adjournment, notwithstanding the withdrawal of enough stockholders to leave less than a quorum.

Section 7. VOTING. A plurality of all the votes cast at a meeting of stockholders duly called and at which a quorum is present shall be sufficient to elect a director. Each share may be voted for as many individuals as there are directors to be elected and for whose election the share is entitled to be voted. A majority of the votes cast at a meeting of stockholders duly called and at which a quorum is present shall be sufficient to approve any other matter which may properly come before the meeting, unless more than a majority of the votes cast is required by statute or by the charter of the Corporation. Unless otherwise provided in the charter, each outstanding share, regardless of class, shall be entitled to one vote on each matter submitted to a vote at a meeting of stockholders.

Section 8. PROXIES. A stockholder may cast the votes entitled to be cast by the shares of stock owned of record by the stockholder in person or by proxy executed by the stockholder or by the stockholder's duly authorized agent in any manner permitted by law. Such proxy or evidence of authorization of such proxy shall be filed with the secretary of the Corporation before or at the meeting. No proxy shall be valid more than eleven months after its date unless otherwise provided in the proxy.

Section 9. VOTING OF STOCK BY CERTAIN HOLDERS. Stock of the Corporation registered in the name of a corporation, partnership, trust or other entity, if entitled to be voted, may be voted by the president or a vice president, a general partner or trustee thereof, as the case may be, or a proxy appointed by any of the foregoing individuals, unless some other person who has been appointed to vote such stock pursuant to a bylaw or a resolution of the governing body of such corporation or other entity or agreement of the partners of a partnership presents a certified copy of such bylaw, resolution or agreement, in which case such person may vote such stock. Any director or other fiduciary may vote stock registered in his or her name as such fiduciary, either in person or by proxy.

Shares of stock of the Corporation directly or indirectly owned by it shall not be voted at any meeting and shall not be counted in determining the total number of outstanding shares entitled to be voted at any given time, unless they are held by it in a fiduciary capacity, in which case they may be voted and shall be counted in determining the total number of outstanding shares at any given time.

The Board of Directors may adopt by resolution a procedure by which a stockholder may certify in writing to the Corporation that any shares of stock registered in the name of the

stockholder are held for the account of a specified person other than the stockholder. The resolution shall set forth the class of stockholders who may make the certification, the purpose for which the certification may be made, the form of certification and the information to be contained in it; if the certification is with respect to a record date or closing of the stock transfer books, the time after the record date or closing of the stock transfer books within which the certification must be received by the Corporation; and any other provisions with respect to the procedure which the Board of Directors considers necessary or desirable. On receipt of such certification, the person specified in the certification shall be regarded as, for the purposes set forth in the certification, the stockholder of record of the specified stock in place of the stockholder who makes the certification.

Section 10. INSPECTORS. The Board of Directors, in advance of any meeting, may, but need not, appoint one or more individual inspectors or one or more entities that designate individuals as inspectors to act at the meeting or any adjournment thereof. If an inspector or inspectors are not appointed, the person presiding at the meeting may, but need not, appoint one or more inspectors. In case any person who may be appointed as an inspector fails to appear or act, the vacancy may be filled by appointment made by the Board of Directors in advance of the meeting or at the meeting by the chairman of the meeting. The inspectors, if any, shall determine the number of shares outstanding and the voting power of each, the shares represented at the meeting, the existence of a quorum, the validity and effect of proxies, and shall receive votes, ballots or consents, hear and determine all challenges and questions arising in connection with the right to vote, count and tabulate all votes, ballots or consents, determine the result, and do such acts as are proper to conduct the election or vote with fairness to all stockholders. Each such report shall be in writing and signed by him or her or by a majority of them if there is more than one inspector acting at such meeting. If there is more than one inspector, the report of a majority shall be the report of the inspectors. The report of the inspector or inspectors on the number of shares represented at the meeting and the results of the voting shall be prima facie evidence thereof.

Section 11. ADVANCE NOTICE OF STOCKHOLDER NOMINEES FOR DIRECTOR AND OTHER STOCKHOLDER PROPOSALS.

(a) Annual Meetings of Stockholders. (1) Nominations of individuals for election to the Board of Directors and the proposal of other business to be considered by the stockholders may be made at an annual meeting of stockholders (i) pursuant to the Corporation's notice of meeting, (ii) by or at the direction of the Board of Directors or (iii) by any stockholder of the Corporation who was a stockholder of record both at the time of giving of notice by the stockholder as provided for in this Section 11(a) and at the time of the annual meeting, who is entitled to vote at the meeting and who has complied with this Section 11(a).

(2) For nominations or other business to be properly brought before an annual meeting by a stockholder pursuant to clause (iii) of paragraph (a)(1) of this Section 11, the stockholder must have given timely notice thereof in writing to the Secretary of the Corporation and such other business must otherwise be a proper matter for action by the stockholders. To be timely, a stockholder's notice shall set forth all information required under this Section 11 and shall be delivered to the Secretary at the principal executive office of the Corporation not less than 90 days nor more than 120 days prior to the first anniversary of the date of mailing of the notice for the preceding year's annual meeting; provided, however, that in the event that the date of the mailing of

the notice for the annual meeting is advanced or delayed by more than 30 days from the first anniversary of the date of mailing of the notice for the preceding year's annual meeting, notice by the stockholder to be timely must be so delivered not earlier than the 120th day prior to the date of mailing of the notice for such annual meeting and not later than the close of business on the later of the 90th day prior to the date of mailing of the notice for such annual meeting or the tenth day following the day on which public announcement of the date of mailing of the notice for such meeting is first made. In no event shall the public announcement of a postponement or adjournment of an annual meeting commence a new time period for the giving of a stockholder's notice as described

above. Such stockholder's notice shall set forth (i) as to each individual whom the stockholder proposes to nominate for election or reelection as a director, (A) the name, age, business address and residence address of such individual, (B) the class, series and number of any shares of stock of the Corporation that are beneficially owned by such individual, (C) the date such shares were acquired and the investment intent of such acquisition and (D) all other information relating to such individual that is required to be disclosed in solicitations of proxies for election of directors in an election contest (even if an election contest is not involved), or is otherwise required, in each case pursuant to Regulation 14A (or any successor provision) under the Exchange Act and the rules thereunder (including such individual's written consent to being named in the proxy statement as a nominee and to serving as a director if elected); (ii) as to any other business that the stockholder proposes to bring before the meeting, a description of such business, the reasons for proposing such business at the meeting and any material interest in such business of such stockholder and any Stockholder Associated Person (as defined below), individually or in the aggregate, including any anticipated benefit to the stockholder and the Stockholder Associated Person therefrom; (iii) as to the stockholder giving the notice and any Stockholder Associated Person, the class, series and number of all shares of stock of the Corporation which are owned by such stockholder and by such Stockholder Associated Person, if any, and the nominee holder for, and number of, shares owned beneficially but not of record by such stockholder and by any such Stockholder Associated Person; (iv) as to the stockholder giving the notice and any Stockholder Associated Person covered by clauses (ii) or (iii) of this paragraph (2) of this Section 11(a), the name and address of such stockholder, as they appear on the Corporation's stock ledger and current name and address, if different, and of such Stockholder Associated Person; and (v) to the extent known by the stockholder giving the notice, the name and address of any other stockholder supporting the nominee for election or reelection as a director or the proposal of other business on the date of such stockholder's notice.

(3) Notwithstanding anything in this subsection (a) of this Section 11 to the contrary, in the event the Board of Directors increases or decreases the maximum or minimum number of directors in accordance with Article III, Section 2 of these Bylaws, and there is no public announcement of such action at least 100 days prior to the first anniversary of the date of mailing of the notice of the preceding year's annual meeting, a stockholder's notice required by this Section 11(a) shall also be considered timely, but only with respect to nominees for any new positions created by such increase, if it shall be delivered to the Secretary at the principal executive office of the Corporation not later than the close of business on the tenth day following the day on which such public announcement is first made by the Corporation.

(4) For purposes of this Section 11, "Stockholder Associated Person" of any stockholder shall mean (i) any person controlling, directly or indirectly, or acting in concert with, such stockholder, (ii) any beneficial owner of shares of stock of the Corporation owned of record or

beneficially by such stockholder and (iii) any person controlling, controlled by or under common control with such Stockholder Associated Person.

(b) Special Meetings of Stockholders. Only such business shall be conducted at a special meeting of stockholders as shall have been brought before the meeting pursuant to the Corporation's notice of meeting. Nominations of individuals for election to the Board of Directors may be made at a special meeting of stockholders at which directors are to be elected (i) pursuant to the Corporation's notice of meeting, (ii) by or at the direction of the Board of Directors or (iii) provided that the Board of Directors has determined that directors shall be elected at such special meeting, by any stockholder of the Corporation who is a stockholder of record both at the time of giving of notice provided for in this Section 11 and at the time of the special meeting, who is entitled to vote at the meeting and who complied with the notice procedures set forth in this Section 11. In the event the Corporation calls a special meeting of stockholders for the purpose of electing one or more individuals to the Board of Directors, any such stockholder may nominate an individual or individuals (as the case may be) for election as a director as specified in the Corporation's notice of meeting, if the stockholder's notice required by paragraph (2) of this Section 11(a) shall be delivered to the Secretary at the principal executive office of the Corporation not earlier than the 120th day prior to such special meeting and not later than the close of business on the later of the 90th day prior to such special meeting or the tenth day following the day on which public

announcement is first made of the date of the special meeting and of the nominees proposed by the Board of Directors to be elected at such meeting. In no event shall the public announcement of a postponement or adjournment of a special meeting commence a new time period for the giving of a stockholder's notice as described above.

(c) General. (1) Upon written request by the secretary or the Board of Directors or any committee thereof, any stockholder proposing a nominee for election as a director or any proposal for other business at a meeting of stockholders shall provide, within five Business Days of delivery of such request (or such other period as may be specified in such request), written verification, satisfactory, in the discretion of the Board of Directors or any committee thereof or any authorized officer of the Corporation, to demonstrate the accuracy of any information submitted by the stockholder pursuant to this Section 11. If a stockholder fails to provide such written verification within such period, the information as to which written verification was requested may be deemed not to have been provided in accordance with this Section 11.

(2) Only such individuals who are nominated in accordance with this Section 11 shall be eligible for election as directors, and only such business shall be conducted at a meeting of stockholders as shall have been brought before the meeting in accordance with this Section 11. The chairman of the meeting shall have the power to determine whether a nomination or any other business proposed to be brought before the meeting was made or proposed, as the case may be, in accordance with this Section 11.

(3) For purposes of this Section 11, (a) the "date of mailing of the notice" shall mean the date of the proxy statement for the solicitation of proxies for election of directors and (b) "public announcement" shall mean disclosure (i) in a press release reported by the Dow Jones News Service, Associated Press or comparable news service or (ii) in a document publicly filed by the Corporation with the Securities and Exchange Commission pursuant to the Exchange Act.

(4) Notwithstanding the foregoing provisions of this Section 11, a stockholder shall also comply with all applicable requirements of state law and of the Exchange Act and the rules and regulations thereunder with respect to the matters set forth in this Section 11. Nothing in this Section 11 shall be deemed to affect any right of a stockholder to request inclusion of a proposal in, nor the right of the Corporation to omit a proposal from, the Corporation's proxy statement pursuant to Rule 14a-8 (or any successor provision) under the Exchange Act.

Section 12. VOTING BY BALLOT. Voting on any question or in any election may be viva voce unless the presiding officer shall order or any stockholder shall demand that voting be by ballot.

Section 13. CONTROL SHARE ACQUISITION ACT. Notwithstanding any other provision of the charter of the Corporation or these Bylaws, Title 3, Subtitle 7 of the Maryland General Corporation Law (or any successor statute) shall not apply to any acquisition by any person of shares of stock of the Corporation. This section may be repealed, in whole or in part, at any time, whether before or after an acquisition of control shares and, upon such repeal, may, to the extent provided by any successor bylaw, apply to any prior or subsequent control share acquisition.

ARTICLE III

DIRECTORS

Section 1. GENERAL POWERS. The business and affairs of the Corporation shall be managed under the direction of its Board of Directors.

Section 2. NUMBER, TENURE AND QUALIFICATIONS. At any regular meeting or at any special meeting called for that purpose, a majority of the entire Board of Directors may establish, increase or decrease the number of directors, provided that the number thereof shall never be less than the minimum number required by the Maryland General Corporation Law, nor more than 9, and further provided that the tenure of office of a director shall not be affected by any decrease in the number of directors.

Section 3. ANNUAL AND REGULAR MEETINGS. An annual

meeting of the Board of Directors shall be held immediately after and at the same place as the annual meeting of stockholders, no notice other than this Bylaw being necessary. In the event such meeting is not so held, the meeting may be held at such time and place as shall be specified in a notice given as hereinafter provided for special meetings of the Board of Directors. The Board of Directors may provide, by resolution, the time and place for the holding of regular meetings of the Board of Directors without other notice than such resolution.

Section 4. SPECIAL MEETINGS. Special meetings of the Board of Directors may be called by or at the request of the chairman of the board, the chief executive officer, the president or by a majority of the directors then in office. The person or persons authorized to call special meetings of the Board of Directors may fix any place as the place for holding any special meeting of the Board of Directors called by them. The Board of Directors may provide, by

resolution, the time and place for the holding of special meetings of the Board of Directors without other notice than such resolution.

Section 5. NOTICE. Notice of any special meeting of the Board of Directors shall be delivered personally or by telephone, electronic mail, facsimile transmission, United States mail or courier to each director at his or her business or residence address. Notice by personal delivery, telephone, electronic mail or facsimile transmission shall be given at least 24 hours prior to the meeting. Notice by United States mail shall be given at least three days prior to the meeting. Notice by courier shall be given at least two days prior to the meeting. Telephone notice shall be deemed to be given when the director or his or her agent is personally given such notice in a telephone call to which the director or his or her agent is a party. Electronic mail notice shall be deemed to be given upon transmission of the message to the electronic mail address given to the Corporation by the director. Facsimile transmission notice shall be deemed to be given upon completion of the transmission of the message to the number given to the Corporation by the director and receipt of a completed answer-back indicating receipt. Notice by United States mail shall be deemed to be given when deposited in the United States mail properly addressed, with postage thereon prepaid. Notice by courier shall be deemed to be given when deposited with or delivered to a courier properly addressed. Neither the business to be transacted at, nor the purpose of, any annual, regular or special meeting of the Board of Directors need be stated in the notice, unless specifically required by statute or these Bylaws.

Section 6. QUORUM. A majority of the directors shall constitute a quorum for transaction of business at any meeting of the Board of Directors, provided that, if less than a majority of such directors are present at said meeting, a majority of the directors present may adjourn the meeting from time to time without further notice, and provided further that if, pursuant to the charter of the Corporation or these Bylaws, the vote of a majority of a particular group of directors is required for action, a quorum must also include a majority of such group.

The directors present at a meeting which has been duly called and convened may continue to transact business until adjournment, notwithstanding the withdrawal of enough directors to leave less than a quorum.

Section 7. VOTING. The action of the majority of the directors present at a meeting at which a quorum is present shall be the action of the Board of Directors, unless the concurrence of a greater proportion is required for such action by applicable statute or the charter. If enough Directors have withdrawn from a meeting to leave less than a quorum but the meeting is not adjourned, the action of a majority of that number of Directors necessary to constitute a quorum at such meeting shall be the action of the Board of Directors, unless the concurrence of a greater proportion is required for such action by applicable statute or by the charter.

Section 8. ORGANIZATION. At each meeting of the Board of Directors, the chairman of the board or, in the absence of the chairman, the vice chairman of the board, if any, shall act as Chairman. In the absence of both the chairman and vice chairman of the board, the chief executive officer or in the absence of the chief executive officer, the president or in the absence of the president, a director chosen by a majority of the directors present, shall act as Chairman. The secretary or, in his or her absence, an assistant

secretary of the Corporation, or in the absence of the

secretary and all assistant secretaries, a person appointed by the Chairman, shall act as Secretary of the meeting.

Section 9. TELEPHONE MEETINGS. Directors may participate in a meeting by means of a conference telephone or similar communications equipment if all persons participating in the meeting can hear each other at the same time. Participation in a meeting by these means shall constitute presence in person at the meeting.

Section 10. WRITTEN CONSENT BY DIRECTORS. Any action required or permitted to be taken at any meeting of the Board of Directors may be taken without a meeting, if a consent in writing to such action is signed by each director and such written consent is filed with the minutes of proceedings of the Board of Directors.

Section 11. VACANCIES. If for any reason any or all the directors cease to be directors, such event shall not terminate the Corporation or affect these Bylaws or the powers of the remaining directors hereunder (even if fewer than three directors remain). Any vacancy on the Board of Directors for any cause other than an increase in the number of directors shall be filled by a majority of the remaining directors, even if such majority is less than a quorum. Any vacancy in the number of directors created by an increase in the number of directors may be filled by a majority vote of the entire Board of Directors. Any individual so elected as director shall serve until the next annual meeting of stockholders and until his or her successor is elected and qualifies.

Section 12. COMPENSATION. Directors shall not receive any stated salary for their services as directors but, by resolution of the Board of Directors, may receive compensation per year and/or per meeting and/or per visit to real property or other facilities owned or leased by the Corporation and for any service or activity they performed or engaged in as directors. Directors may be reimbursed for expenses of attendance, if any, at each annual, regular or special meeting of the Board of Directors or of any committee thereof and for their expenses, if any, in connection with each property visit and any other service or activity they performed or engaged in as directors; but nothing herein contained shall be construed to preclude any directors from serving the Corporation in any other capacity and receiving compensation therefor.

Section 13. LOSS OF DEPOSITS. No director shall be liable for any loss which may occur by reason of the failure of the bank, trust company, savings and loan association, or other institution with whom moneys or stock have been deposited.

Section 14. SURETY BONDS. Unless required by law, no director shall be obligated to give any bond or surety or other security for the performance of any of his or her duties.

Section 15. RELIANCE. Each director, officer, employee and agent of the Corporation shall, in the performance of his or her duties with respect to the Corporation, be fully justified and protected with regard to any act or failure to act in reliance in good faith upon the books of account or other records of the Corporation, upon an opinion of counsel or upon reports made to the Corporation by any of its officers or employees or by the adviser, accountants, appraisers or other experts or consultants selected by the Board of Directors or officers of the Corporation, regardless of whether such counsel or expert may also be a director.

Section 16. CERTAIN RIGHTS OF DIRECTORS, OFFICERS, EMPLOYEES AND AGENTS. The directors shall have no responsibility to devote their full time to the affairs of the Corporation. Any director or officer, employee or agent of the Corporation, in his or her personal capacity or in a capacity as an affiliate, employee, or agent of any other person, or otherwise, may have business interests and engage in business activities similar to or in addition to or in competition with those of or relating to the Corporation.

ARTICLE IV

COMMITTEES

Section 1. NUMBER, TENURE AND QUALIFICATIONS. The Board of Directors may appoint from among its members an Executive Committee, an Audit Committee, a Compensation Committee and other committees, composed of one or more directors, to serve at the pleasure of the Board of Directors.

Section 2. POWERS. The Board of Directors may delegate to committees appointed under Section 1 of this Article any of the powers of the Board of Directors, except as prohibited by law.

Section 3. MEETINGS. Notice of committee meetings shall be given in the same manner as notice for special meetings of the Board of Directors. A majority of the members of the committee shall constitute a quorum for the transaction of business at any meeting of the committee. The act of a majority of the committee members present at a meeting shall be the act of such committee. The Board of Directors may designate a chairman of any committee, and such chairman or, in the absence of a chairman, any two members of any committee (if there are at least two members of the Committee) may fix the time and place of its meeting unless the Board shall otherwise provide. In the absence of any member of any such committee, the members thereof present at any meeting, whether or not they constitute a quorum, may appoint another director to act in the place of such absent member. Each committee shall keep minutes of its proceedings.

Section 4. TELEPHONE MEETINGS. Members of a committee of the Board of Directors may participate in a meeting by means of a conference telephone or similar communications equipment if all persons participating in the meeting can hear each other at the same time. Participation in a meeting by these means shall constitute presence in person at the meeting.

Section 5. WRITTEN CONSENT BY COMMITTEES. Any action required or permitted to be taken at any meeting of a committee of the Board of Directors may be taken without a meeting, if a consent in writing to such action is signed by each member of the committee and such written consent is filed with the minutes of proceedings of such committee.

Section 6. VACANCIES. Subject to the provisions hereof, the Board of Directors shall have the power at any time to change the membership of any committee, to fill all vacancies, to designate alternate members to replace any absent or disqualified member or to dissolve any such committee.

ARTICLE V

OFFICERS

Section 1. GENERAL PROVISIONS. The officers of the Corporation shall include a president, a secretary and a treasurer and may include a chairman of the board, a vice chairman of the board, a chief executive officer, one or more vice presidents, a chief operating officer, a chief financial officer, a chief credit officer, one or more assistant secretaries and one or more assistant treasurers. In addition, the Board of Directors may from time to time elect such other officers with such powers and duties as they shall deem necessary or desirable. The officers of the Corporation shall be elected annually by the Board of Directors, except that the chief executive officer or president may from time to time appoint one or more vice presidents, assistant secretaries and assistant treasurers or other officers. Each officer shall hold office until his or her successor is elected and qualifies or until his or her death, or his or her resignation or removal in the manner hereinafter provided. Any two or more offices except president and vice president may be held by the same person. Election of an officer or agent shall not of itself create contract rights between the Corporation and such officer or agent.

Section 2. REMOVAL AND RESIGNATION. Any officer or agent of the Corporation may be removed, with or without cause, by the Board of Directors if in its judgment the best interests of the Corporation would be served thereby, but such removal shall be without prejudice to the contract rights, if any, of the person so removed. Any officer of the Corporation may resign at any time by giving written notice of his or her resignation to the Board of Directors, the chairman of the board, the president or the secretary.

Any resignation shall take effect immediately upon its receipt or at such later time specified in the notice of resignation. The acceptance of a resignation shall not be necessary to make it effective unless otherwise stated in the resignation. Such resignation shall be without prejudice to the contract rights, if any, of the Corporation.

Section 3. VACANCIES. A vacancy in any office may be filled by the Board of Directors for the balance of the term.

Section 4. CHIEF EXECUTIVE OFFICER. The Board of Directors may designate a chief executive officer. In the absence of such designation, the chairman of the board shall be the chief executive officer of the Corporation. The chief executive officer shall have general responsibility for implementation of the policies of the Corporation, as determined by the Board of Directors, and for the management of the business and affairs of the Corporation.

Section 5. CHIEF OPERATING OFFICER. The Board of Directors may designate a chief operating officer. The chief operating officer shall have the responsibilities and duties as set forth by the Board of Directors or the chief executive officer.

Section 6. CHIEF FINANCIAL OFFICER. The Board of Directors may designate a chief financial officer. The chief financial officer shall have the responsibilities and duties as set forth by the Board of Directors or the chief executive officer.

Section 7. CHIEF CREDIT OFFICER. The Board of Directors may designate a chief credit officer. The chief credit officer shall have the responsibilities and duties as set forth by the Board of Directors or the chief executive officer.

Section 8. CHAIRMAN OF THE BOARD. The Board of Directors shall designate a chairman of the board. The chairman of the board shall preside over the meetings of the Board of Directors and of the stockholders at which he shall be present. The chairman of the board shall perform such other duties as may be assigned to him or her by the Board of Directors.

Section 9. PRESIDENT. In the absence of a chief executive officer, the president shall in general supervise and control all of the business and affairs of the Corporation. In the absence of a designation of a chief operating officer by the Board of Directors, the president shall be the chief operating officer. He may execute any deed, mortgage, bond, contract or other instrument, except in cases where the execution thereof shall be expressly delegated by the Board of Directors or by these Bylaws to some other officer or agent of the Corporation or shall be required by law to be otherwise executed; and in general shall perform all duties incident to the office of president and such other duties as may be prescribed by the Board of Directors from time to time.

Section 10. VICE PRESIDENTS. In the absence of the president or in the event of a vacancy in such office, the vice president (or in the event there be more than one vice president, the vice presidents in the order designated at the time of their election or, in the absence of any designation, then in the order of their election) shall perform the duties of the president and when so acting shall have all the powers of and be subject to all the restrictions upon the president; and shall perform such other duties as from time to time may be assigned to such vice president by the president or by the Board of Directors. The Board of Directors may designate one or more vice presidents as executive vice president or as vice president for particular areas of responsibility.

Section 11. SECRETARY. The secretary shall (a) keep the minutes of the proceedings of the stockholders, the Board of Directors and committees of the Board of Directors in one or more books provided for that purpose; (b) see that all notices are duly given in accordance with the provisions of these Bylaws or as required by law; (c) be custodian of the corporate records and of the seal of the Corporation; (d) keep a register of the post office address of each stockholder which shall be furnished to the secretary by such stockholder; (e) have general charge of the stock transfer books of the Corporation; and (f) in general perform such other duties as from

time to time may be assigned to him by the chief executive officer, the president or by the Board of Directors.

Section 12. TREASURER. The treasurer shall have the custody of the funds and securities of the Corporation and shall keep full and accurate accounts of receipts and disbursements in books belonging to the Corporation and shall deposit all moneys and other valuable effects in the name and to the credit of the Corporation in such depositories as may be designated by the Board of Directors. In the absence of a designation of a chief financial officer by the Board of Directors, the treasurer shall be the chief financial officer of the Corporation.

The treasurer shall disburse the funds of the Corporation as may be ordered by the Board of Directors, taking proper vouchers for such disbursements, and shall render to the president and Board of Directors, at the regular meetings of the Board of Directors or whenever it may so

require, an account of all his or her transactions as treasurer and of the financial condition of the Corporation.

If required by the Board of Directors, the treasurer shall give the Corporation a bond in such sum and with such surety or sureties as shall be satisfactory to the Board of Directors for the faithful performance of the duties of his or her office and for the restoration to the Corporation, in case of his or her death, resignation, retirement or removal from office, of all books, papers, vouchers, moneys and other property of whatever kind in his or her possession or under his or her control belonging to the Corporation.

Section 13. ASSISTANT SECRETARIES AND ASSISTANT TREASURERS. The assistant secretaries and assistant treasurers, in general, shall perform such duties as shall be assigned to them by the secretary or treasurer, respectively, or by the president or the Board of Directors. The assistant treasurers shall, if required by the Board of Directors, give bonds for the faithful performance of their duties in such sums and with such surety or sureties as shall be satisfactory to the Board of Directors.

Section 14. SALARIES. The salaries and other compensation of the officers shall be fixed from time to time by the Board of Directors and no officer shall be prevented from receiving such salary or other compensation by reason of the fact that he is also a director.

ARTICLE VI

CONTRACTS, LOANS, CHECKS AND DEPOSITS

Section 1. CONTRACTS. The Board of Directors may authorize any officer or agent to enter into any contract or to execute and deliver any instrument in the name of and on behalf of the Corporation and such authority may be general or confined to specific instances. Any agreement, deed, mortgage, lease or other document shall be valid and binding upon the Corporation when authorized or ratified by action of the Board of Directors and executed by an authorized person.

Section 2. CHECKS AND DRAFTS. All checks, drafts or other orders for the payment of money, notes or other evidences of indebtedness issued in the name of the Corporation shall be signed by such officer or agent of the Corporation in such manner as shall from time to time be determined by the Board of Directors.

Section 3. DEPOSITS. All funds of the Corporation not otherwise employed shall be deposited from time to time to the credit of the Corporation in such banks, trust companies or other depositories as the Board of Directors may designate.

ARTICLE VII

STOCK

Section 1. CERTIFICATES. Except as otherwise provided

in these Bylaws, this Section shall not be interpreted to limit the authority of the Board of Directors to issue some or all of the shares of any or all of its classes or series without certificates. Each stockholder, upon written request to the secretary of the Corporation, shall be entitled to a certificate or certificates which shall represent and certify the number of shares of each class of stock held by him in the Corporation. Each certificate shall be signed by the chairman of the board, the president or a vice president and countersigned by the secretary or an assistant secretary or the treasurer or an assistant treasurer and may be sealed with the seal, if any, of the Corporation. The signatures may be either manual or facsimile. Certificates shall be consecutively numbered; and if the Corporation shall, from time to time, issue several classes of stock, each class may have its own number series. A certificate is valid and may be issued whether or not an officer who signed it is still an officer when it is issued. Each certificate representing shares which are restricted as to their transferability or voting powers, which are preferred or limited as to their dividends or as to their allocable portion of the assets upon liquidation or which are redeemable at the option of the Corporation, shall have a statement of such restriction, limitation, preference or redemption provision, or a summary thereof, plainly stated on the certificate. If the Corporation has authority to issue stock of more than one class, the certificate shall contain on the face or back a full statement or summary of the designations and any preferences, conversion and other rights, voting powers, restrictions, limitations as to dividends and other distributions, qualifications and terms and conditions of redemption of each class of stock and, if the Corporation is authorized to issue any preferred or special class in 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. In lieu of such statement or summary, the certificate may state that the Corporation will furnish a full statement of such information to any stockholder upon request and without charge. If any class of stock is restricted by the Corporation as to transferability, the certificate shall contain a full statement of the restriction or state that the Corporation will furnish information about the restrictions to the stockholder on request and without charge.

Section 2. TRANSFERS. Upon surrender to the Corporation or the transfer agent of the Corporation of a stock certificate duly endorsed or accompanied by proper evidence of succession, assignment or authority to transfer, the Corporation shall issue a new certificate to the person entitled thereto, cancel the old certificate and record the transaction upon its books.

The Corporation shall be entitled to treat the holder of record of any share of stock as the holder in fact thereof and, accordingly, shall not be bound to recognize any equitable or other claim to or interest in such share or on the part of any other person, whether or not it shall have express or other notice thereof, except as otherwise provided by the laws of the State of Maryland.

Notwithstanding the foregoing, transfers of shares of any class of stock will be subject in all respects to the charter of the Corporation and all of the terms and conditions contained therein.

Section 3. REPLACEMENT CERTIFICATE. Any officer designated by the Board of Directors may direct a new certificate to be issued in place of any certificate previously issued by the Corporation alleged to have been lost, stolen or destroyed upon the making of an affidavit of that fact by the person claiming the certificate to be lost, stolen or destroyed. When authorizing the issuance of a new certificate, an officer designated by the Board of Directors may, in his or her discretion and as a condition precedent to the issuance thereof, require the owner of such lost, stolen or destroyed certificate or the owner's legal representative to advertise the same in such manner as he shall require and/or to give bond, with sufficient surety, to the Corporation to indemnify it against any loss or claim which may arise as a result of the issuance of a new certificate.

Section 4. CLOSING OF TRANSFER BOOKS OR FIXING OF RECORD DATE. The Board of Directors may set, in advance, a record date for the purpose of determining stockholders entitled to notice of or to vote at any meeting of stockholders or determining stockholders entitled to receive payment of any dividend or the allotment of any other rights, or in order to make a determination of stockholders for any other proper purpose. Such date, in any

case, shall not be prior to the close of business on the day the record date is fixed and shall be not more than 90 days and, in the case of a meeting of stockholders, not less than ten days, before the date on which the meeting or particular action requiring such determination of stockholders of record is to be held or taken.

In lieu of fixing a record date, the Board of Directors may provide that the stock transfer books shall be closed for a stated period but not longer than 20 days. If the stock transfer books are closed for the purpose of determining stockholders entitled to notice of or to vote at a meeting of stockholders, such books shall be closed for at least ten days before the date of such meeting.

If no record date is fixed and the stock transfer books are not closed for the determination of stockholders, (a) the record date for the determination of stockholders entitled to notice of or to vote at a meeting of stockholders shall be at the close of business on the day on which the notice of meeting is mailed or the 30th day before the meeting, whichever is the closer date to the meeting; and (b) the record date for the determination of stockholders entitled to receive payment of a dividend or an allotment of any other rights shall be the close of business on the day on which the resolution of the directors, declaring the dividend or allotment of rights, is adopted.

When a determination of stockholders entitled to vote at any meeting of stockholders has been made as provided in this section, such determination shall apply to any adjournment thereof, except when (i) the determination has been made through the closing of the transfer books and the stated period of closing has expired or (ii) the meeting is adjourned to a date more than 120 days after the record date fixed for the original meeting, in either of which case a new record date shall be determined as set forth herein.

Section 5. STOCK LEDGER. The Corporation shall maintain at its principal office or at the office of its counsel, accountants or transfer agent, an original or duplicate share ledger containing the name and address of each stockholder and the number of shares of each class held by such stockholder.

Section 6. FRACTIONAL STOCK; ISSUANCE OF UNITS. The Board of Directors may issue fractional stock or provide for the issuance of scrip, all on such terms and under such conditions as they may determine. Notwithstanding any other provision of the charter or these Bylaws, the Board of Directors may issue units consisting of different securities of the Corporation. Any security issued in a unit shall have the same characteristics as any identical securities issued by the Corporation, except that the Board of Directors may provide that for a specified period securities of the Corporation issued in such unit may be transferred on the books of the Corporation only in such unit.

ARTICLE VIII

ACCOUNTING YEAR

The Board of Directors shall have the power, from time to time, to fix the fiscal year of the Corporation by a duly adopted resolution.

ARTICLE IX

DISTRIBUTIONS

Section 1. AUTHORIZATION. Dividends and other distributions upon the stock of the Corporation may be authorized by the Board of Directors, subject to the provisions of law and the charter of the Corporation. Dividends and other distributions may be paid in cash, property or stock of the Corporation, subject to the provisions of law and the charter.

Section 2. CONTINGENCIES. Before payment of any dividends or other distributions, there may be set aside out of any assets of the Corporation available for dividends or other distributions such sum or sums as the Board of Directors may from time to time, in its absolute discretion, think proper as a reserve fund for contingencies, for equalizing dividends or other distributions, for repairing or maintaining any property of the Corporation or for such other purpose as the Board of Directors shall determine

to be in the best interest of the Corporation, and the Board of Directors may modify or abolish any such reserve.

ARTICLE X

INVESTMENT POLICY

Subject to the provisions of the charter of the Corporation, the Board of Directors may from time to time adopt, amend, revise or terminate any policy or policies with respect to investments by the Corporation as it shall deem appropriate in its sole discretion.

ARTICLE XI

SEAL

Section 1. SEAL. The Board of Directors may authorize the adoption of a seal by the Corporation. The seal shall contain the name of the Corporation and the year of its incorporation and the words "Incorporated Maryland." The Board of Directors may authorize one or more duplicate seals and provide for the custody thereof.

Section 2. AFFIXING SEAL. Whenever the Corporation is permitted or required to affix its seal to a document, it shall be sufficient to meet the requirements of any law, rule or regulation relating to a seal to place the word "(SEAL)" adjacent to the signature of the person authorized to execute the document on behalf of the Corporation.

ARTICLE XII

INDEMNIFICATION AND ADVANCE OF EXPENSES

To the maximum extent permitted by Maryland law in effect from time to time, the Corporation shall indemnify and, without requiring a preliminary determination of the ultimate entitlement to indemnification, shall pay or reimburse reasonable expenses in advance of final disposition of a proceeding to (a) any individual who is a present or former director or officer of the Corporation and who is made a party to the proceeding by reason of his or her service in that capacity or (b) any individual who, while a director of the Corporation and at the request of the Corporation, serves or has served as a director, officer, partner or trustee of such corporation, real estate investment trust, partnership, joint venture, trust, employee benefit plan or other enterprise and who is made a party to the proceeding by reason of his or her service in that capacity. The Corporation may, with the approval of its Board of Directors, provide such indemnification and advance for expenses to a person who served a predecessor of the Corporation in any of the capacities described in (a) or (b) above and to any employee or agent of the Corporation or a predecessor of the Corporation.

Neither the amendment nor repeal of this Article, nor the adoption or amendment of any other provision of the Bylaws or charter of the Corporation inconsistent with this Article, shall apply to or affect in any respect the applicability of the preceding paragraph with respect to any act or failure to act which occurred prior to such amendment, repeal or adoption.

ARTICLE XIII

WAIVER OF NOTICE

Whenever any notice is required to be given pursuant to the charter of the Corporation or these Bylaws or pursuant to applicable law, a waiver thereof in writing, signed by the person or persons entitled to such notice, whether before or after the time stated therein, shall be deemed equivalent to the giving of such notice. Neither the business to be transacted at nor the purpose of any meeting need be set forth in the waiver of notice, unless specifically required by statute. The

attendance of any person at any meeting shall constitute a waiver of notice of such meeting, except where such person attends a meeting for the express purpose

of objecting to the transaction of any business on the ground that the meeting is not lawfully called or convened.

ARTICLE XIV

AMENDMENT OF BYLAWS

The Board of Directors shall have the exclusive power to adopt, alter or repeal any provision of these Bylaws and to make new Bylaws.

EXHIBIT 4.4

WARRANT AGREEMENT

BY AND BETWEEN

ARBOR REALTY TRUST, INC.

AND

AMERICAN STOCK TRANSFER & TRUST COMPANY

AS WARRANT AGENT

1,610,000 WARRANTS TO PURCHASE COMMON STOCK

TABLE OF CONTENTS

WARRANT AGREEMENT

This Agreement, dated as of the date set forth on the signature page, by and between Arbor Realty Trust, Inc., a Maryland corporation with an office at 333 Earle Ovington Boulevard, Suite 900, Uniondale, New York 11553 (the "Company"), and American Stock Transfer & Trust Company, with an office at 59 Maiden Lane, Plaza Level, New York, NY 10038, Attention: Corporate Department (the "Warrant Agent").

WITNESSETH

A. The Company has authorized the issuance of up to 1,400,000 units ("Units") (or 1,610,000 if the Initial Purchaser's over-allotment option is exercised in full), each Unit consisting of shares of its Common Stock, par value $0.01 per share, (the "Common Stock"), and one Common Stock purchase warrant (each a "Warrant," and collectively, the "Warrants"), each Warrant initially entitling the holders thereof to purchase one additional share of its Common Stock, which Warrants are to be attached initially to the shares of Common Stock issued as provided in Paragraph C below;

B. Such Units are to be offered by the Company pursuant to that certain Offering Memorandum, dated as of June 26, 2003 (the "Offering Memorandum") and purchased (i) by the Initial Purchaser named in that certain Purchase/Placement Agreement (the "Purchase/Placement Agreement") dated as of June 26, 2003 and thereafter, subject to the terms thereof, offered to (A) Qualified Institutional Buyers ("QIBs") (as defined in Rule 144A under the Securities Act of 1933, as amended (the "Securities Act")), and (B) a limited number of institutional "accredited investors" (as defined in Rule 501(a)(1), (2), (3) or (7) under the Securities Act), and (ii) by individual "accredited investors" (as defined in Rule 501(a)(4), (5) or (6) of the Securities Act) (collectively, "Accredited Investors") pursuant to those certain Subscription Agreements accepted by the Company as of July 1, 2003;

C. In accordance with the provisions of Section 3 of this Agreement, the Warrants will not be detachable from the Common Stock until the shares of Common Stock underlying the Units are both (i) registered with the Securities and Exchange Commission (the "Commission") pursuant to the Securities Act and (ii) listed for trading on a national securities exchange on the Nasdaq Stock Market, Inc. After the shares of Common Stock underlying the Units are registered and listed as provided for in the immediately preceding sentence, the Warrants may be detached and transferred separately from the shares of Common Stock to which they were attached upon issuance of the Units. The Warrants will expire on the date that is two years after the date of the Offering Memorandum; and

D. The Company desires the Warrant Agent to act on behalf of the Company, and the Warrant Agent is willing so to act, in connection with the issuance, transfer, exchange, replacement and exercise of the Warrants.

NOW, THEREFORE, in consideration of the premises and the mutual agreements herein set forth, the parties hereto agree as follows:

ARTICLE 1

DEFINITIONS

SECTION 1. DEFINITIONS

Capitalized terms used herein shall have the following meanings:

Accredited Investors. Shall have the meaning set forth in the Recitals.

Acquiror. Shall have the meaning set forth in Section 4.11.

Business Day. Each Monday, Tuesday, Wednesday, Thursday and Friday that is not a day on which banking institutions in the City of New York are authorized or obligated by federal, state or local law or executive order to close.

Commission. Shall have the meaning set forth in the Recitals.

Common Stock. Shall have the meaning set forth in the Recitals.

Consideration. Shall have the meaning set forth in Section 4.11.

Corporate Trust Office. The principal office of the Warrant Agent at 59 Maiden Lane, Plaza Level, New York, NY 10038, Attention: Corporate Department, or such other address at which at any particular time its corporate trust business shall be administered.

Corporation. A corporation, association, company, joint-stock company or business trust.

Definitive Warrant Certificates. A Warrant Certificate that is in the form set forth in Exhibit A to this Agreement and that does not include the information called for by footnote 1 of Exhibit A to this Agreement.

Depositary. The Depository Trust Company as the depositary with respect to the Warrants issuable or issued in whole or in part in global form, until a successor shall have been appointed and become such pursuant to the applicable provision of this Agreement, and thereafter "Depositary" shall mean or include such successor.

Detachment Date. The date that is when the Common Stock underlying the Units is both registered with the Commission pursuant to the Securities Act and listed on a national securities exchange or the Nasdaq Stock Market, Inc.

Exchange Act. The Securities Exchange Act of 1934, as amended.

Exchange Period. Shall have the meaning set forth in Section 4.1.

Exercise Price. Shall have the meaning set forth in Section 4.2.

Expiration Date. The date that is two years after the date of the Offering Memorandum.

Global Warrant Certificate. A Warrant Certificate that is in the form set forth in Exhibit A to this Agreement and that includes the information called for by footnote 1 of Exhibit A to this Agreement.

Holder. A Person in whose name a Warrant Certificate is registered in the Warrant Register.

Initial Purchaser. Shall have the meaning set forth in the Purchase/Placement Agreement.

NASDAQ. Shall have the meaning set forth in Section 4.6(e).

Person. An individual, limited or general partnership, Corporation, joint venture, trust or unincorporated organization, or any other entity, including a government or agency or political subdivision thereof.

Purchase/Placement Agreement. Shall have the meaning set forth in the Recitals.

Responsible Officers. Shall have the meaning set forth in Section 2.2(c).

Restricted Global Warrant Certificate. Shall have the meaning set forth in Section 3.2.

QIB. Shall have the meaning set forth in the Recitals.

Registration Rights Agreement. The Registration Rights Agreement, dated as of the date hereof, among the Company and the Initial Purchasers of the Units.

Rule 144. Rule 144 promulgated under the Securities Act.

Rule 144A. Rule 144A promulgated under the Securities Act.

Securities Act. Shall have the meaning set forth in the Recitals.

Trading Day. Any day other than a Saturday or Sunday or a day on which securities are not traded on any national securities exchange.

Transaction. Shall have the meaning set forth in Section 4.11.

Transfer Restricted Warrants. Each Warrant until the date on which such Warrant (i) has been disposed of pursuant to an effective registration statement under the Securities Act, (ii) is distributed to the public pursuant to Rule 144 or is freely salable pursuant to Rule 144(k) (or any similar provisions then in force), (iii) is otherwise freely tradable without registration under the Securities Act or (iv) has been acquired by the Company.

Unrestricted Global Warrant Certificate. Shall have the meaning set forth in Section 3.2.

Warrant Agent. American Stock Transfer & Trust Company until a successor Warrant Agent shall have become such pursuant to the applicable provisions of this Agreement, and thereafter "Warrant Agent" shall mean such successor Warrant Agent.

Warrant Certificate. A certificate representing Warrants issued under this Agreement.

Warrant Custodian. The Warrant Agent or such other entity that is a "fast agent" meeting the requirements of the Depositary as the Warrant Agent shall designate from time to time, to act as custodian with respect to the Warrants in global form, or any successor entity thereto.

Warrant Register. Shall have the meaning set forth in Section 3.3(a).

ARTICLE 2

THE WARRANT AGENT

SECTION 2.1 APPOINTMENT OF WARRANT AGENT.

The Company hereby appoints the Warrant Agent as its agent in respect of the Warrants and the Warrant Certificates, upon the terms and subject to the conditions set forth herein, and subject to resignation or removal of the Warrant Agent as provided herein. The Warrant Agent agrees to accept such appointment, upon the terms and subject to the conditions set forth herein.

The Warrant Agent shall have the powers and authority granted to it by this Agreement and such further powers and authority to act on behalf of the Company as the Company may hereafter grant to or confer upon it.

SECTION 2.2 DUTIES OF WARRANT AGENT.

The Warrant Agent accepts its obligations set forth herein upon the terms and conditions hereof, including the following, to all of which the Company agrees and to all of which the rights hereunder of the Holders from time to time of the Warrant Certificates shall be subject:

(a) The Warrant Agent shall act hereunder as agent and in a ministerial capacity for the Company, and its duties shall be determined solely by the provisions hereof. In acting under this Agreement and with respect to the Warrant Certificates, the Warrant Agent does not assume any obligation or relationship of agency or trust for or with any Holder.

(b) The Warrant Agent shall be obligated to perform such duties as are specifically set forth herein and in the Warrant Certificates and no implied duties or obligations shall be read into this Agreement or the Warrant Certificates against the Warrant Agent. The Warrant Agent shall have no duty or responsibility in case of any default by the Company in the performance of its covenants or agreements contained in this Agreement or the Warrant Certificates or

in the case of the receipt of any written

demand from any Holder with respect to such default, including, without limiting the generality of the foregoing, any duty or responsibility to initiate or attempt to initiate any proceeding at law or otherwise, or to make any demand upon the Company.

(c) The Warrant Agent is hereby authorized and directed to accept written instructions with respect to the performance of its duties hereunder from any one of the Chief Executive Officer, the President or the Chief Financial Officer of the Company or from any other officer of the Company authorized by resolutions duly adopted by the Board of Directors of the Company to give such instructions (each a "Responsible Officer"), and to apply to such Responsible Officers for advice or instructions in connection with its duties, and it shall not be liable for any action taken or suffered to be taken by it in good faith in accordance with instructions from any Responsible Officer with respect to any matter arising in connection with the Warrant Agent's duties and obligations arising under this Agreement.

(d) The Warrant Agent shall not be liable for any action taken, suffered or omitted to be taken by it in good faith in accordance with any notice, statement, instruction, request, direction, order or demand of a Responsible Officer of the Company believed by it to be genuine. Any such notice, statement, instruction, request, direction, order or demand of the Company shall be sufficiently evidenced by an instrument signed by a Responsible Officer.

(e) Whenever in the performance of its duties under this Agreement, the Warrant Agent shall deem it necessary or desirable that any fact or matter be proved or established by the Company prior to taking or suffering any action hereunder, such fact or matter (unless other evidence in respect thereof be herein specifically prescribed) may be deemed to be conclusively proved and established by a certificate signed by a Responsible Officer, and such certificate shall be full authorization to the Warrant Agent for any action taken or suffered in good faith by it under the provisions of this Agreement in reliance upon such certificate.

(f) The Warrant Agent, to the extent permitted by applicable law, may engage or be interested in any financial or other transaction with the Company and may act on, or as depository, trustee or agent for, any committee or body of holders of shares or other obligations of the Company as freely as if it were not the Warrant Agent hereunder. Nothing in this Agreement shall be deemed to prevent the Warrant Agent from acting in any other capacity for the Company.

(g) The Warrant Agent shall not, by countersigning or delivering Warrant Certificates or by any other act hereunder, be deemed to make any representations as to the validity, value or authorization of the Warrant Certificates or the Warrants represented thereby or of any securities or other property issued or issuable upon exercise of any Warrant or whether any stock issued upon exercise of any Warrant is fully paid and nonassessable.

(h) The Warrant Agent shall not at any time be under any duty or responsibility to any Holder to determine whether any fact exists that may require any adjustment to the Exercise Price, or with respect to the nature or extent of any adjustment, when made, or with respect to the method employed in making any adjustment to the Exercise Price.

(i) The Warrant Agent shall not be liable for any act or omission in connection with this Agreement except for its own negligence or willful misconduct.

(j) The Warrant Agent may at any time consult with

counsel satisfactory to it and shall incur no liability or responsibility in respect of any action taken, suffered or omitted to be taken by it in good faith in accordance with the opinion or advice of such counsel.

(k) The Company agrees that it will perform, execute, acknowledge and deliver, or cause to be performed, executed, acknowledged and delivered, all such further and other acts, instruments and assurances as may reasonably be required by the Warrant Agent for the carrying out or performing by the Warrant Agent of the provisions of this Agreement.

(l) The Warrant Agent shall not be required to risk or expend its own funds in the performance of its obligations and duties hereunder unless it has obtained an indemnity reasonably satisfactory to it to reimburse it for such expenditure.

(m) The Warrant Agent shall not be under any liability for interest on, and shall not be required to invest, any monies at any time received by it pursuant to any of the provisions of this Agreement or of the Warrant Certificates. The Warrant Agent shall not be accountable for the use or application by the Company of the proceeds of the exercise of any Warrant.

SECTION 2.3 COMPENSATION; INDEMNIFICATION.

The Company agrees to pay the Warrant Agent from time to time such compensation as shall be agreed upon by the Company and the Warrant Agent, and the Company agrees to reimburse the Warrant Agent for its reasonable out-of-pocket expenses and disbursements incurred without negligence, willful misconduct or bad faith on its part in connection with the services rendered by it hereunder.

The Company also agrees to indemnify the Warrant Agent for, and to hold it harmless against, any loss, liability or expense, including judgments, costs and reasonable counsel fees, incurred without negligence, willful misconduct or bad faith on the part of the Warrant Agent, arising out of or in connection with its acting as Warrant Agent hereunder. The obligations of the Company under this Section 2.3 shall survive the exercise and the expiration of the Warrants and the resignation and removal of the Warrant Agent.

SECTION 2.4 RESIGNATION; SUCCESSOR WARRANT AGENTS.

The Warrant Agent may at any time resign as Warrant Agent and be discharged from all further duties and liabilities hereunder (except liabilities arising as a result of the Warrant Agent's own negligence or willful misconduct), by giving written notice to the Company and each holder of Warrants of such resignation, specifying the date on which such resignation shall be effective; provided, that such notice shall be given no less than 90 days prior to such effective date. Upon receiving such notice of resignation, the Company shall promptly appoint a successor

Warrant Agent by written instrument in duplicate signed on behalf of the Company by a Responsible Officer, one copy of which shall be delivered to the resigning Warrant Agent and one copy to the successor Warrant Agent. Such resignation shall become effective upon the acceptance of the appointment by the successor Warrant Agent.

The Company may, at any time and for any reason, remove the Warrant Agent and appoint a successor Warrant Agent by written instrument in duplicate, specifying such removal and the date on which it is to become effective, signed by a Responsible Officer of the Company, one copy of which shall be delivered to the Warrant Agent being removed and one copy to the successor Warrant Agent.

Upon resignation or removal of the Warrant Agent, if the Company shall fail to appoint a successor Warrant Agent within a period of 90 days after receipt of such notice of resignation or removal, then any Holder may apply to a court of competent jurisdiction for the appointment of a successor to the Warrant Agent. Pending appointment of a successor to the Warrant Agent, either by the Company or by such a court, the duties of the Warrant Agent shall be carried out by the Company.

Any appointment of a successor Warrant Agent shall become effective upon acceptance of appointment by the successor Warrant Agent as provided in this Section 2.4. As soon as practicable after the appointment of the successor Warrant Agent, the Company shall cause written notice of the change in the Warrant Agent to be given to each of Holder.

Each successor Warrant Agent shall execute and deliver to its predecessor and to the Company an instrument accepting such appointment hereunder and all the provisions of this Agreement, and thereupon such successor Warrant Agent shall, without any further act, deed or conveyance, become vested with the same powers, rights, duties and responsibilities of its predecessor hereunder, with like effect as if it had been originally named herein, and the Warrant Agent shall thereupon become obligated to transfer, deliver and pay over, and such successor Warrant Agent shall be entitled to receive, all moneys, securities, records or other property on deposit with or held by the Warrant Agent under this Agreement.

Any Person into which the Warrant Agent may be converted or merged, or any corporation resulting from any consolidation to which the Warrant Agent shall be a party, or any corporation succeeding to the trust business of the Warrant Agent, shall be a successor Warrant Agent under this Agreement without any further act on the part of any party. Any such successor Warrant Agent shall promptly cause notice of its succession as Warrant Agent to be mailed to the Company and to each Holder.

ARTICLE 3

THE WARRANTS

SECTION 3.1 NUMBER OF WARRANTS.

The number of Warrants that may be issued and delivered under this Agreement is limited to 1,400,000 Warrants (or 1,610,000 if the Initial Purchaser's over-allotment option is exercised in full pursuant to Section 1(b) of the Purchase/Placement Agreement), except for Warrants issued and delivered in connection with any transfer of, in exchange for, or in lieu of, other Warrants (which other Warrants shall be canceled) in accordance with the terms of this Agreement.

SECTION 3.2 ISSUANCE OF WARRANTS.

Prior to the Detachment Date, beneficial ownership of each Warrant shall be evidenced by the Unit certificate to which such Warrant relates, bearing the following legend:

THE SECURITIES REPRESENTED BY THIS CERTIFICATE INCLUDE THE BENEFICIAL OWNERSHIP IN A STOCK PURCHASE WARRANT FOR ONE SHARE OF COMMON STOCK OF THE COMPANY, SUBJECT TO ADJUSTMENTS AS SET FORTH IN THE WARRANT AGREEMENT GOVERNING THE WARRANTS, WHICH STOCK PURCHASE WARRANT IS HELD BY THE WARRANT AGENT AND IS DEEMED TO BE ATTACHED HERETO AND IS NOT DETACHABLE HEREFROM NOR EXERCISABLE EXCEPT AS SET FORTH IN THE WARRANT AGREEMENT. THE SECURITIES REPRESENTED BY THIS CERTIFICATE ARE SUBJECT TO THE PROVISIONS AND ENTITLED TO THE BENEFITS OF SUCH WARRANT AGREEMENT, A COPY OF WHICH IS ON FILE AT THE OFFICES OF THE COMPANY AND WILL BE MADE AVAILABLE TO ANY SHAREHOLDER UPON REQUEST WITHOUT CHARGE. UPON DETACHMENT OF THE WARRANT FOLLOWING THE DETACHMENT DATE, A SEPARATE COMMON STOCK CERTIFICATE AND A WARRANT CERTIFICATE REPRESENTING OWNERSHIP OF THE COMMON STOCK AND THE WARRANTS, RESPECTIVELY, WILL BE ISSUED TO THE REGISTERED HOLDER OF THIS UNIT CERTIFICATE.

After the Detachment Date, Warrants offered and sold to QIBs will be, except as provided in the last paragraph of this Section 3.3, issued in the form of a single, permanent Global Warrant Certificate in definitive, fully registered form, in substantially the form set forth in Exhibit A to this Agreement (including the information called for by footnotes 1, 2, 3 and 4 thereof) (the "Restricted Global Warrant Certificate"), which will be deposited with the Warrant Custodian and registered in the name of the Depositary or a nominee of the Depositary.

Warrants transferred pursuant to an effective registration statement under the Securities Act or in reliance on Rule 144 (and, in each such case, in

accordance with Section 3.3 of this Agreement) will be, upon request of the transferor, represented by a single, permanent Global

Warrant Certificate in definitive, fully registered form, in substantially the form set forth in Exhibit A to this Agreement (including the information called for by footnotes 1, 3 and 4 thereof) (the "Unrestricted Global Warrant Certificate"), which will be held by the Warrant Custodian and registered in the name of the Depositary or a nominee of the Depositary.

Each Global Warrant Certificate shall represent such of the outstanding Warrants as shall be specified therein and each shall provide that it shall represent the aggregate number of outstanding Warrants from time to time endorsed thereon and that the aggregate amount of outstanding Warrants represented thereby may from time to time be reduced or increased, as appropriate, to reflect exchanges, transfers and exercises. Any endorsement of a Global Warrant Certificate to reflect the amount of any increase or decrease in the amount of outstanding Warrants represented thereby shall be made by the Warrant Agent or the Warrant Custodian, at the direction of the Warrant Agent, in accordance with instructions given by the Holder of the Global Warrant Certificate and in accordance with Section 3.3 of this Agreement.

After the Detachment Date, Warrants offered and sold (i) to Accredited Investors who are not QIBs or (ii) to QIBs who elect by written notice to the Company to take physical delivery of Definitive Warrant Certificates rather than a beneficial interest in a Global Warrant Certificate, will be issued in the form of Definitive Warrant Certificates. Definitive Warrant Certificates may also be issued in accordance with Section 3.3 of this Agreement.

SECTION 3.3 REGISTRATION OF TRANSFER AND EXCHANGE.

(a) General. The Company shall cause to be kept at the Corporate Trust Office of the Warrant Agent a register (the register maintained in such office and in any other office or agency designated pursuant to Section 6.5 of this Agreement being herein collectively referred to as the "Warrant Register") in which the Warrant Agent shall provide for the registration of Warrant Certificates and of transfers and exchanges of Warrants.

(b) Transfer of a Beneficial Interest in a Global Warrant Certificate. The transfer and exchange of a beneficial interest in a Global Warrant Certificate shall be effected through the Depositary in accordance with this Agreement (including the restrictions on transfer set forth herein) and the procedures of the Depositary therefor.

(c) Transfer and Exchange of Definitive Warrant Certificates. A Holder of a Definitive Warrant Certificate may at any time transfer such Definitive Warrant Certificate or exchange such Definitive Warrant Certificate for Definitive Warrant Certificates representing an equal number of Warrants in accordance with this subsection (c). Upon receipt by the Warrant Agent of:

(i) a Definitive Warrant Certificate, duly endorsed or accompanied by appropriate instruments of transfer, in form reasonably satisfactory to the Warrant Agent, and

(ii) if such Definitive Warrant Certificate represents Transfer Restricted Warrants, a certificate in substantially the form set forth in

Exhibit B to this Agreement from the Holder thereof requesting Definitive Warrant Certificates and stating that such Warrants are being:

(1) delivered to the Warrant Agent for registration in the name of such Holder, without transfer; or

(2) transferred pursuant to an effective registration statement under the Securities Act; or

(3) transferred to a QIB in accordance with Rule 144A; or

(4) transferred in reliance on an exemption from the registration requirements of the Securities Act other than that provided by Rule 144A (in which case the Definitive Warrant Certificate surrendered shall also be accompanied by an opinion of counsel reasonably acceptable to the Company and the Warrant Agent to the effect that such transfer is in compliance with the Securities Act),

then the Warrant Agent will cancel the surrendered Definitive Warrant Certificate, the Company will execute one or more Definitive Warrant Certificates representing the amount of Warrants to be transferred or exchanged and the Warrant Agent will countersign and deliver to the transferee or Holder such Definitive Warrant Certificates and the Warrant Agent will register such Definitive Warrant Certificates in the name of the transferee or Holder.

(d) Transfer of a Definitive Warrant Certificate for a Beneficial Interest in a Global Warrant Certificate. A Holder of a Definitive Warrant Certificate may at any time, subject to the rules and procedures of the Depositary, transfer such Definitive Warrant Certificate for an equivalent beneficial interest in the appropriate Global Warrant Certificate in accordance with this subsection (d). Upon receipt by the Warrant Agent of:

(i) a Definitive Warrant Certificate, duly endorsed or accompanied by appropriate instruments of transfer, in form reasonably satisfactory to the Warrant Agent, together with an instruction of the transferor thereof requesting an equivalent beneficial interest in the appropriate Global Warrant Certificate; and

(ii) if such Definitive Warrant Certificate represents Transfer Restricted Warrants, a certificate in substantially the form set forth in Exhibit B to this Agreement from the transferor thereof stating that such Warrants are being transferred:

(1) to a QIB in accordance with Rule 144A (in which case the appropriate Global Warrant Certificate shall be the Restricted Global Warrant Certificate); or

(2) pursuant to an effective registration statement under the Securities Act or in reliance on Rule 144 (in each of which cases the appropriate Global Warrant Certificate shall be the

Unrestricted Global Warrant Certificate and, in the case of a transfer in reliance on Rule 144, the Warrant Agent shall also receive an opinion of counsel reasonably acceptable to the Company and to the Warrant Agent to the effect that such transfer is in compliance with the Securities Act),

then the Warrant Agent will cancel the surrendered Definitive Warrant Certificate, the Warrant Custodian, in accordance with the standing instructions

and procedures existing among the Depositary and the Warrant Custodian, will increase the aggregate number of Warrants covered by the appropriate Global Warrant Certificate in the amount to be transferred and the Depositary will effect the transfer in accordance with its procedures therefor.

(e) Transfer or Exchange of a Beneficial Interest in a Global Warrant Certificate for a Definitive Warrant Certificate. A Holder of a beneficial interest in a Global Warrant Certificate may at any time, subject to the rules and procedures of the Depositary, transfer or exchange such beneficial interest for one or more Definitive Warrant Certificates in accordance with this subsection (e). Upon receipt by the Warrant Custodian of:

(i) an instruction given in accordance with the procedures of the Depositary on behalf of a Holder of a beneficial interest in a Global Warrant Certificate to reduce the Global Warrant Certificate by the number of Warrants to be transferred or exchanged; and

(ii) if such Global Warrant Certificate is the Restricted Global Warrant Certificate, a certificate (which may be submitted by facsimile promptly followed by an original) in substantially the form set forth in Exhibit B to this Agreement from the Holder of such beneficial interest stating that such Warrants are being:

(1) delivered to the Warrant Agent for registration in the name of such Holder, without change of beneficial ownership; or

(2) transferred pursuant to an effective registration statement under the Securities Act; or

(3) transferred to a QIB in accordance with Rule 144A; or

(4) transferred in reliance on an exemption from the registration requirements of the Securities Act other than that provided by Rule 144A (which case the Warrant Custodian shall also receive an opinion of counsel reasonably acceptable to the Company and to the Warrant Custodian to the effect that such transfer is in compliance with the Securities Act),

then the Warrant Custodian, in accordance with the standing instructions and procedures existing among the Depositary and the Warrant Custodian, will reduce the amount of Warrants covered

by the appropriate Global Warrant Certificate, the Company will execute one or more Definitive Warrant Certificates in the aggregate amount of Warrants to be transferred or exchanged and the Warrant Agent will countersign and deliver to the transferee or Holder such Definitive Warrant Certificates and the Warrant Agent shall register the Definitive Warrant Certificates in the name of such transferee or Holder.

(f) Transfer of a Beneficial Interest in the Restricted Global Warrant Certificate for a Beneficial Interest in the Unrestricted Global Warrant Certificate. A Holder of a beneficial interest in the Restricted Global Warrant Certificate may at any time, subject to the rules and procedures of the Depositary, transfer all or part of its interest in the Restricted Global Warrant Certificate for an equivalent interest in the Unrestricted Global Warrant Certificate in accordance with this subsection (f). Upon receipt by the Warrant Custodian of:

(i) an instruction given in accordance with the procedures of the Depositary on behalf of a Holder of a beneficial interest in the Restricted Global Warrant Certificate to reduce such Global Warrant Certificate by the amount of the interest to be transferred and increase the Unrestricted Global Warrant Certificate by a like amount, and

(ii) a certificate (which may be submitted by facsimile promptly followed by an original) in substantially the form set forth in Exhibit B to this Agreement from the Person designated by the Depositary as such Holder, to the effect that such interest is being transferred in reliance on Rule 144 (in which case the Warrant Custodian shall also receive an opinion of counsel reasonably acceptable to the Company and to the Warrant Custodian to the effect that such transfer is in compliance with the Securities Act) or pursuant to an effective registration statement under the Securities Act,

then the Warrant Custodian, in accordance with the standing instructions and procedures existing among the Depositary and the Warrant Custodian, will so reduce the Restricted Global Warrant Certificate and increase the Unrestricted Global Warrant Certificate, and the transfer and exchange of such beneficial interest shall be effected through the Warrant Custodian and the Depositary in accordance with this Agreement and the procedures of the Depositary and the Warrant Custodian therefor.

(g) Restrictions on Transfer of Global Warrant Certificates. Notwithstanding any other provisions of this Agreement (other than the provisions set forth in subsection (h) of this Section 3.3), a Global Warrant Certificate may not be transferred except as a whole by the Depositary to a nominee of the Depositary or by a nominee of the Depositary to the Depositary or another nominee of the Depositary or by the Depositary or any such nominee to a successor Depositary or a nominee of such successor Depositary.

(h) Issuance of Definitive Warrant Certificates in the Absence of a Depositary. If at any time the Depositary notifies the Company that the Depositary is unwilling or unable to continue as Depositary for the Global Warrant Certificates and a

successor Depositary for the Global Warrant Certificates is not appointed by the Company within 90 days after delivery of such notice, then the Warrant Custodian, in accordance with the standing instructions and procedures existing among the Depositary and the Warrant Custodian, will cancel the Global Warrant Certificates, the Company will execute Definitive Warrant Certificates representing an aggregate number of Warrants equal to the aggregate number of Warrants evidenced by the Global Warrant Certificates, and the Warrant Agent will countersign and deliver to each Person designated by the Depositary as a Holder of a beneficial interest in the Global Warrant Certificates a Definitive Warrant Certificate evidencing a number of Warrants equal to such interest.

(i) Legends. Except as permitted by this subsection (i), the Restricted Global Warrant Certificate and the Definitive Warrant Certificates (and all Warrant Certificates issued in exchange therefor or substitution thereof) shall bear a legend in substantially the form set forth in Exhibit A to this Agreement. A Definitive Warrant Certificate that does not bear the legends set forth in Exhibit A to this Agreement will be executed, countersigned and delivered in the case of (i) a transfer pursuant to an effective registration statement under the Securities Act of a Transfer Restricted Warrant in accordance with subsection (c)(ii)(2) of this Section 3.3, (ii) a transfer in reliance on Rule 144 of a Transfer Restricted Warrant in accordance with subsection (c)(ii)(4) of this Section 3.3; (iii) a transfer pursuant to an effective registration statement under the Securities Act of a beneficial interest in the Restricted Global Warrant

Certificate in accordance with subsection (e)(ii)(2) of this Section 3.3; (iv) a transfer in reliance on Rule 144 of a beneficial interest in the Restricted Global Warrant Certificate in accordance with subsection (e)(ii)(4) of this Section 3.3; or (v) a transfer or exchange of a beneficial interest in the Unrestricted Global Warrant Certificate or of a Warrant represented by a Definitive Warrant Certificate that is not a Transfer Restricted Warrant.

(j) Cancellation and/or Adjustment of Global Warrant Certificate. At such time as all interests in a Global Warrant Certificate have either been exchanged for Definitive Warrant Certificates, exercised for shares of Common Stock or canceled, such Global Warrant Certificate shall be returned to or retained and canceled by the Warrant Agent. At any time prior to such cancellation, if any beneficial interest in a Global Warrant Certificate is exchanged for Definitive Warrant Certificates, exercised for shares of Common Stock or canceled, the number of Warrants represented by such Global Warrant Certificate shall be reduced and an endorsement shall be made on such Global Warrant Certificate, by the Warrant Agent or the Warrant Custodian, at the direction of the Warrant Agent, to reflect such reduction.

(k) Taxes. No service charge shall be payable by any Holder for any registration of transfer or exchange of Warrant Certificates, but the Company may require payment of a sum sufficient to cover any tax or other governmental charge that may be imposed in connection with any registration of transfer or exchange of Warrant Certificates other than exchanges not involving any transfer.

SECTION 3.4 EXECUTION AND DELIVERY.

The Warrant Certificates shall be executed on behalf of the Company by its Chief Executive Officer, its President or its Chief Financial Officer, under its corporate seal reproduced thereon, attested by its Secretary or one of its Assistant Secretaries. The signature of any of these officers on the Warrant Certificates may be manual or facsimile. Warrant Certificates bearing the manual or facsimile signatures of individuals who were at any time the proper officers of the Company shall bind the Company, notwithstanding that such individuals or any of them have ceased to hold such offices prior to the delivery of such Warrant Certificates or the date they are countersigned by the Warrant Agent.

No Warrant Certificate or the Warrants represented thereby shall be valid or be entitled to any benefit under this Agreement unless such Warrant Certificate has been countersigned by an authorized officer of the Warrant Agent by manual signature. All Warrant Certificates shall be dated the date they are countersigned by the Warrant Agent.

At any time and from time to time after the execution and delivery of this Agreement, the Company shall deliver Warrant Certificates executed by the Company in accordance with this Section 3.4 to the Warrant Agent. Subject to Section 3.1 of this Agreement, the Warrant Agent shall, upon the written request of a Responsible Officer of the Company, countersign and deliver Warrant Certificates representing such number of Warrants, registered in such names and bearing such legends as may be specified in such request. The Warrant Agent shall also countersign and deliver Warrant Certificates as otherwise provided in this Agreement.

SECTION 3.5 DESTROYED, LOST, MUTILATED OR STOLEN WARRANT CERTIFICATES.

If there shall be delivered to the Company and the Warrant Agent evidence to their satisfaction of the destruction, loss, mutilation or theft of any Warrant Certificate and such security and indemnity as may be required by them to save each of them and any agent of either of them harmless, then, in the absence of notice to the Company or the Warrant Agent that such Warrant Certificate has been acquired by a bona fide purchaser, and in the case of mutilation, upon surrender of such Warrant Certificate to the Warrant Agent for cancellation, the Company shall execute and the Warrant Agent shall countersign and deliver, in lieu of or exchange for any such destroyed, lost, mutilated or stolen Warrant Certificate, a new Warrant Certificate for a like number of Warrants, bearing a number not contemporaneously outstanding.

Upon the issuance of any new Warrant Certificate under this Section 3.5, the Company may require the payment of a sum sufficient to cover any tax or other governmental charge that may be imposed in relation thereto and any other expenses (including the fees and expenses of the Warrant Agent) connected therewith.

Every substitute Warrant Certificate issued and delivered pursuant to this Section 3.5 in lieu of any destroyed, lost or stolen Warrant Certificate shall constitute an original additional contractual obligation of the Company, whether or not the destroyed, lost or stolen Warrant Certificate shall be at any time enforceable by anyone, and shall be entitled to all the benefits of,

and be subject to all the limitations of rights set forth in, this Agreement equally and proportionately with any and all other Warrant Certificates duly issued and delivered hereunder.

The provisions of this Section 3.5 are exclusive and shall preclude (to the extent lawful) any and all other rights and remedies with respect to the replacement of destroyed, lost, mutilated or stolen Warrant Certificates notwithstanding any law or statute existing or hereafter enacted to the contrary.

SECTION 3.6 PERSONS DEEMED OWNERS.

The Company and the Warrant Agent, and any agent of the Company or the Warrant Agent, may deem and treat the Person in whose name a Warrant Certificate is registered in the Warrant Register as the absolute, true and lawful owner of such Warrant Certificate and the Warrants represented thereby (notwithstanding any notation of ownership or other writing thereon made by any Person) for all purposes, and neither the Company nor the Warrant Agent nor any of their respective agents shall be affected by any notice or knowledge to the contrary.

SECTION 3.7 CANCELLATION OF WARRANT CERTIFICATES.

All Warrant Certificates surrendered for registration of transfer, exchange or exercise shall be delivered to the Warrant Agent and shall be promptly canceled by the Warrant Agent. The Company may at any time deliver to the Warrant Agent for cancellation any Warrant Certificates previously delivered hereunder that the Company may have acquired in any manner whatsoever, and all Warrant Certificates so delivered shall be promptly canceled by the Warrant Agent. No Warrant Certificates shall be delivered in lieu of or in exchange for any Warrant Certificates canceled by the Warrant Agent, except as expressly permitted by this Agreement.

SECTION 3.8 NO RIGHTS AS STOCKHOLDERS.

Nothing contained in this Agreement or in the Warrant Certificates shall be construed as conferring upon the Holders or any transferees any of the rights of stockholders of the Company, including without limitation, the right to vote or to receive dividends or to receive notice as stockholders in respect of any meeting of stockholders for the election of directors of the Company or any other matter. Nothing contained in this Agreement shall be construed as imposing any liabilities on such holder to purchase any securities or as a stockholder of the Company, whether such liabilities are assumed by the Company or by creditors or stockholders of the Company or otherwise.

ARTICLE 4

EXERCISE OF WARRANTS

SECTION 4.1 EXERCISE PERIOD.

Subject to and upon compliance with the provisions of this Agreement, at the option of the Holder thereof, a Warrant may be exercised at the Exercise Price in effect at the time of exercise, at any time on any Business Day during the period (the "Exercise Period") commencing on the Detachment Date and ending 5:00 P.M., New York time, on the Expiration Date, unless the Exercise Period is

extended by the Company. Following the Expiration Date, any Warrant not previously exercised shall expire and be null and void, and all rights of the Holder under the Warrant Certificate evidencing such Warrant and under this Agreement shall cease.

SECTION 4.2 SHARES ISSUABLE UPON EXERCISE; EXERCISE PRICE.

Subject to and upon compliance with the provisions of this Agreement, each Warrant shall entitle the Holder thereof to purchase from the Company one share of Common Stock of the Company at an exercise price (the "Exercise Price") of $15.00 per share of Common Stock. The Exercise Price and the number and kind of securities or other property issuable upon exercise of the Warrants shall be adjusted in certain instances as provided in Section 4.6 of this Agreement.

SECTION 4.3 METHOD OF EXERCISE.

Each Warrant may be exercised in whole or in part. In order to exercise any Warrants, the Holder thereof shall present and surrender the Warrant Certificate evidencing the Warrants to the Warrant Agent at the office or agency of the Company maintained for that purpose pursuant to Section 6.5, with the Notice of Exercise on the Warrant Certificate duly completed and executed by the Holder or by the Holder's legal representative or attorney duly authorized in writing to the satisfaction of the Warrant Agent, and accompanied by payment in full of the aggregate Exercise Price for the number of shares of Common Stock specified in the Notice of Exercise, and of any other amounts required to be paid in connection with such exercise, (i) by cash or certified or official bank check, (ii) by surrendering additional Warrants or shares of Common Stock for cancellation to the extent that the Company may lawfully accept shares of Common Stock in the Company, or (iii) by such other means as is acceptable to the Company in the lawful currency of the United States of America which as of the time of payment is legal tender for payment of public or private debts. In the event the holder exercising its Warrants holds an interest in a Global Warrant Certificate, such holder shall exercise Warrants owned of record by such holder and represented by a Global Warrant Certificate by delivering (i) proof of record ownership of such Warrants if required by the Company and (ii) a notice of exercise in substantially the form set forth in the Warrant as appropriately adjusted. The value per share of Common Stock surrendered in accordance with this Section 4.3 equals the current market price per share of Common Stock as defined in Section 4.6(e) of this Agreement as of the business day next

preceding the date the Warrant Certificates are surrendered for exercise and the value of a Warrant being equal to the difference between such current market price and the Exercise Price.

Warrants shall be deemed to have been exercised immediately prior to the close of business on the date of surrender of the Warrant Certificate representing such Warrants for exercise in accordance with the foregoing provisions, and at such time the Person or Persons entitled to receive the Common Stock issuable upon exercise shall be treated for all purposes as the record holder or holders of such Common Stock at the close of business on the date of such surrender, notwithstanding that the stock transfer books of the Company shall then be closed or that certificates representing such shares of Common Stock shall not then be actually delivered to such Person or Persons.

If any Warrant Certificate is surrendered for the exercise of less than all the Warrants represented thereby, the Company shall execute, and the Warrant Agent shall countersign and deliver to the Holder thereof, at the expense of the Company, a new Warrant Certificate, dated the date of such exercise, evidencing the number of Warrants remaining unexercised unless such Warrants shall have expired.

SECTION 4.4 ISSUANCE OF COMMON STOCK.

Upon the exercise of any Warrants, the Warrant Agent shall (i) cause an amount equal to the amount paid by the Holder upon exercise to be paid to the Company by depositing the same in an account designated by the Company for that purpose or delivering such payment in such other manner as is acceptable to the Company, and (ii) immediately inform the Company in writing of such exercise and deposit or delivery, including the number of Warrants exercised and the instructions of the exercising Holder with respect to delivery of the shares of Common Stock issuable upon such exercise. Within five Business Days of the

Company's receipt of notice from the Warrant Agent pursuant to clause (ii) in the immediately preceding sentence, the Company shall issue and deliver or cause to be delivered at such office or agency maintained pursuant to Section 6.5 a certificate or certificates evidencing the number of full shares of Common Stock issuable upon exercise of such Warrants, registered in such name or names as may be directed by such Holder in the Notice of Exercise, together with a check for payment in lieu of any fractional share, as provided in Section 4.5 of this Agreement.

SECTION 4.5 FRACTIONS OF SHARES.

No fractional shares of Common Stock shall be issued upon exercise of any Warrants. If more than one Warrant shall be exercised at one time by the same Holder, the number of full shares which shall be issuable upon exercise thereof shall be computed on the basis of the aggregate number of shares of Common Stock issuable under the Warrants so exercised. In lieu of any fractional share of Common Stock that would otherwise be issuable upon exercise of any Warrant or Warrants, the Company shall pay a cash adjustment in respect of such fraction in an amount equal to the same fraction of the market price per share of Common Stock (as determined by the Board of Directors of the Company or in any manner prescribed by the Board of Directors) at the close of business on the day such exercise is deemed to have occurred.

SECTION 4.6 ADJUSTMENT OF EXERCISE PRICE.

(a) In the event the Company after the date hereof shall (i) pay a dividend or make a distribution on the Company's Common Stock in shares of capital stock of the Company, (ii) subdivide its outstanding shares of Common Stock, (iii) combine its outstanding shares of Common Stock into a smaller number of shares, or (iv) issue by reclassification of its shares of Common Stock any shares of capital stock of the Company, the exercise right and the Exercise Price in effect immediately prior to such action shall be adjusted so that the holder of any Warrant thereafter surrendering such Warrant for exercise shall be entitled to receive the number of shares of capital stock of the Company that such holder would have owned immediately following such action had such Warrant been exercised immediately prior to the record date for such action or to such action, as appropriate. An adjustment made pursuant to this Section 4.6 shall, in the case of a subdivision, combination or reclassification become effective retroactively immediately after the record date thereof. If, as a result of an adjustment made pursuant to this Section 4.6, the holder of any Warrant thereafter surrendered for exercise shall become entitled to receive shares of two or more classes of capital stock of the Company, the Board of Directors of the Company (whose determination shall be described in a certificate filed with the Warrant Agent) shall in good faith determine the allocation of the adjusted Exercise Price between or among shares of such classes of capital stock.

(b) In the event the Company after the date hereof shall distribute to all the holders of Common Stock any dividend or other distribution (other than a cash distribution made as a dividend payable out of earnings or out of any earned surplus legally available for dividends under the laws of the jurisdiction of incorporation of the Company) or any evidence of indebtedness or any assets in respect of the Common Stock, or rights to subscribe or purchase shares of Common Stock at a price per share less than the current market price per share of Common Stock (as determined in Section 4.6(e) of this Agreement) at the record date referenced below, then, and thereafter successively upon each such distribution, the Exercise Price in effect immediately prior to such distribution shall forthwith be reduced to a price determined by multiplying the Exercise Price in effect immediately prior to such distribution by a fraction, (i) the numerator of which shall be the current market price per share of Common Stock (as determined in Section 4.6(e) of this Agreement) at the record date referenced below, less the fair market value (as determined in good faith by the Board of Directors of the Company, whose determination shall be described in a certificate filed with the Warrant Agent) of the portion of such evidences of indebtedness or such assets so distributed, or of such subscription or purchase rights, applicable to one share of Common Stock and (ii) the denominator of which shall be

such current market price per share of Common Stock. An adjustment made pursuant to Section 4.6(b) shall become effective retroactively immediately after the record date for the determination of stockholders entitled to receive such distribution.

(c) After each adjustment of the Exercise Price pursuant to Sections 4.6(a) and 4.6(b) of this Agreement, the total number of shares of Common Stock or fractional part thereof purchasable upon the exercise of each Warrant shall be proportionately adjusted to the product obtained by multiplying the number of shares of Common Stock

purchasable upon exercise of each Warrant by a fraction, (i) the numerator of which shall be the Exercise Price in effect immediately prior to the adjustment and (ii) the denominator of which shall be the Exercise Price immediately following the adjustment.

(d) The certificate of any independent firm of public accountants of recognized national standing selected by the Board of Directors of the Company shall be conclusive evidence of the correctness of any computations under Sections 4.6(a) and 4.6(b) of this Agreement.

(e) For the purposes of Sections 4.3, 4.6(a) and 4.6(b) of this Agreement, the current market price per share of Common Stock as of any date of determination shall be deemed to be the average of the daily closing prices for the consecutive 20 trading days preceding the day of determination. The closing price for the day shall be the last reported sale price regular way or, in case no such reported sale takes place on that day, the average of the reported closing bid and asked prices regular way, in either case as officially reported by the principal stock exchange on which the Common Stock is listed or admitted to trading, or, if the Common Stock is not listed or admitted to trading on any national securities exchange, the average of closing bid and asked prices as furnished by the National Association of Securities Dealers, Inc. through the National Association of Securities Dealers, Inc. Automated Quotation System ("NASDAQ") or similar organization if NASDAQ is no longer reporting such information.

(f) No adjustment of the Exercise Price shall be required under Sections 4.6(a) and 4.6(b) of this Agreement if the amount of such adjustment is less than 1%; provided, however, that any adjustments that by reason of the foregoing are not required at the time to be made shall be carried forward and taken into account and included in determining the amount of any subsequent adjustment. If the Company shall take a record of holders of Common Stock for the purpose of entitling them to receive any dividend or distribution and thereafter and before the distribution to stockholders of any such dividend or distribution, legally abandon its plan to pay or deliver such dividend or distribution, then no adjustment of the Exercise Price shall be required by reason of the taking of such record. All calculations under this Section 4.6 shall be made to the nearest cent or to the nearest one-hundredth of a share, as the case may be.

(g) Whenever the Exercise Price is adjusted pursuant to this Section 4.6, the Company shall promptly file with the Warrant Agent and with each transfer agent for the Common Stock a certificate signed by the Chief Executive Officer, President or Chief Financial Officer and by the Treasurer or an Assistant Treasurer or the Secretary or an Assistant Secretary of the Company setting forth in reasonable detail the events requiring the adjustment, the method by which such adjustment was calculated, and specifying the Exercise Price and the number or kind or class of shares or other securities or property purchasable upon exercise of the Warrants after giving effect to such adjustment, and will cause to be mailed, first class, postage prepaid a summary thereof to the registered holders of the Warrant Certificates at their last addressees as they appear on the registry books of the Warrant Agent.

(h) For the purposes of this Section 4.6, the term "Common Stock" shall mean (i) the class of stock designated as the common stock, par value $0.01 per share, of the

Company, at the date of this Agreement and (ii) any other class of stock resulting from successive changes or reclassifications of such Common Stock consisting solely of changes in par value, or from par value to no par value, or from no par value to par value. In the event that at any time, as a result of an adjustment made pursuant to Section 4.6(a) of this Agreement, shares of capital stock of the Company other than shares of Common Stock are issuable upon exercise of the Warrants, thereafter the number of such other shares so issuable shall be subject to adjustment from time to time in a manner and on terms as nearly equivalent as practicable to the provisions with respect to the Common Stock contained in this Section 4.6, and all other provisions of this Agreement with respect to Common Stock shall apply on like terms to any such other shares. Subject to the foregoing, and unless the context requires otherwise, all references to Common Stock in this Agreement and in the Warrant Certificates shall, in the event of an adjustment pursuant to this Section 4.6, be deemed to refer also to any other securities or property then issuable upon exercise of the Warrants as a result of such adjustments.

SECTION 4.7 NOTICE OF CERTAIN CORPORATE ACTION.

In case:

(a) the Company shall declare a dividend (or any other distribution) on the Common Stock payable otherwise than exclusively in cash; or

(b) the Company shall authorize the granting to the holders of the Common Stock of rights, options or warrants to subscribe for or purchase any shares of capital stock of any class or of any other rights; or

(c) of any reclassification of the Common Stock of the Company (other than a merger which is effected solely to change the jurisdiction of incorporation of the Company), or of any consolidation or merger to which the Company is a party and for which approval of any stockholders of the Company is required, or of the sale or transfer of all or substantially all of the assets of the Company; or

(d) of the voluntary or involuntary dissolution, liquidation or winding up of the Company;

then the Company shall, if notice of such event is sent to the holders of the Company's Common Stock generally, cause to be filed at each office or agency maintained pursuant to Section 6.5 of this Agreement for the purpose of exercising Warrants, and shall cause to be mailed to all Holders at their last addresses as they shall appear in the Warrant Register, on or prior to the date information regarding such corporate action is sent to holders of the Company's Common Stock generally, a notice stating (i) the date on which a record is to be taken for the purpose of such dividend, distribution, rights, options or warrants, or, if a record is not to be taken, the date as of which the holders of Common Stock of record to be entitled to such dividend, distribution, rights, options or warrants are to be determined, or (ii) the date on which such reclassification, consolidation, merger, transfer, dissolution, liquidation or winding up (or amendment thereto) is expected to become effective, and the date as of which it is expected that holders of record of such class of Common Stock shall be entitled to exchange their shares of Common Stock for

securities, cash or other property deliverable upon such reclassification, consolidation, merger, transfer, dissolution, liquidation or winding up. The Warrant Agent shall not be responsible for giving such notice or for the contents of any such notice to the Holders.

SECTION 4.8 COMPANY TO RESERVE COMMON STOCK.

The Company shall, at all times during the Exercise Period, reserve and

keep available, free from preemptive rights, out of its authorized but unissued Common Stock, for the purpose of effecting the exercise of Warrants, the full number of shares of Common Stock then issuable upon the exercise of all outstanding Warrants.

SECTION 4.9 TAXES ON EXERCISES.

The Company shall pay any and all taxes that may be payable in respect of the issue or delivery of shares of Common Stock on exercise of Warrants pursuant hereto. The Company shall not, however, be required to pay any tax which may be payable in respect of (i) income of the Holder or (ii) any transfer involved in the issue and delivery of shares of Common Stock in name other than that of the Holder of the Warrant or Warrants to be exercised, and no such issue or delivery shall be made unless and until the Person requesting such issue has paid to the Company the amount of any such taxes or has established to the satisfaction of the Company that such tax has been paid.

SECTION 4.10 COVENANT AS TO COMMON STOCK.

The Company covenants that all shares of Common Stock that may be issued upon exercise of any Warrants will, upon issue and payment of the Exercise Price therefor, be validly issued, fully paid and nonassessable and free and clear from all taxes, liens, charges, security interests, encumbrances and other restrictions created by or through the Company.

SECTION 4.11 PROVISIONS IN CASE OF CONSOLIDATION, MERGER OR SALE OF ASSETS.

In case of any consolidation of the Company with, or merger of the Company into, any other Person, any merger of another Person into the Company (other than a merger which does not result in any reclassification, conversion, exchange or cancellation of outstanding shares of Common Stock of the Company) or any sale or transfer of all or substantially all of the assets of the Company (each, a "Transaction"), the Person formed by such Transaction or which acquires such assets, as the case may be (the "Acquiror"), shall execute and deliver to the Warrant Agent prior to the consummation of the Transaction a warrant agreement (or supplement to this Warrant Agreement) providing that the Holder of each Warrant then outstanding shall have the right thereafter, during the period such Warrant shall be exercisable in accordance with this Warrant Agreement, to exercise such Warrant only into the kind and amount of securities, cash and other property (collectively, the "Consideration") receivable upon such Transaction by a holder of the number of shares of Common Stock of the Company into which such Warrant might have been exercised immediately prior to such Transaction, assuming such holder of

Common Stock of the Company (i) is not a Person with which the Company consolidated or into which the Company merged or which merged into the Company or to which such sale or transfer was made, as the case may be (a "constituent person"), or an affiliate of a constituent person and (ii) failed to exercise such Holder's rights of election, if any, as to the kind or amount of Consideration receivable upon such Transaction (provided that if the kind or amount of Consideration receivable upon such Transaction is not the same for each share of Common Stock held immediately prior to such Transaction by Persons other than a constituent person or an affiliate thereof and in respect of which such rights of election shall not have been exercised ("non-electing share"), then for the purpose of this Section 4.11 the kind and amount of Consideration receivable upon such Transaction by each non-electing share shall be deemed to be the kind and amount so receivable per share by a plurality of the non-electing shares). Such warrant agreement shall provide for adjustments upon the occurrence of events with respect to the Acquiror similar to the events described in Sections 4.6(a) and (b) of this Agreement, which, for events subsequent to the effective date of such warrant agreement, shall be as nearly equivalent as may be practicable to the adjustments provided for in this Article of this Agreement. The above provisions of this Section shall similarly apply to successive Transactions.

SECTION 4.12 NO CHANGE OF WARRANT NECESSARY.

Irrespective of any adjustment in the Exercise Price or in the number or kind of shares or other property issuable upon exercise of the Warrants, the Warrant Certificates theretofore or thereafter issued may continue to express the same Exercise Price and number and kind of shares issuable upon exercise per

Warrant as are stated in the Warrant Certificates initially issued pursuant to this Agreement.

SECTION 4.13 ENFORCEMENT OF RIGHTS.

Notwithstanding any of the provisions of this Agreement, any Holder, without the consent of the Warrant Agent or any other Holder, may enforce, and may institute and maintain any suit, action or proceeding against the Company to enforce, such Holder's right to exercise the Warrants evidenced by such Holder's Warrant Certificate in the manner provided in such Warrant Certificate and this Agreement.

SECTION 4.14 AVAILABLE INFORMATION.

The Company shall promptly file with the Warrant Agent (and cause the Warrant Agent to deliver to the holders of the Warrants upon request to the Company) copies of its annual reports and of the information, documents and other reports (or copies of such portions of any of the foregoing as the Commission may by rules and regulations prescribe) that the Company is required to file with the Commission pursuant to Section 13 or 15(d) of the Exchange Act.

ARTICLE 5

AMENDMENTS

SECTION 5.1 AMENDMENT OF AGREEMENT.

The Warrant Agent and the Company may, without the consent of any Holders, amend this Agreement in such manner as they shall deem appropriate to cure any ambiguity, to correct any defective or inconsistent provision or manifest mistake or error herein contained, or in any other manner that they may deem necessary or desirable and which shall not adversely affect the rights of the Holders of Warrants. This Agreement shall not otherwise be modified, supplemented or amended in any respect by the Warrant Agent and the Company, except with the consent in writing of the Holders of outstanding Warrants representing not less than a majority of the Warrants then outstanding; provided, however, that the consent in writing of each and every Holder shall be required for any such modification, supplement or amendment which (a) changes the Exercise Period (except to extend the expiration of the Exercise Period to a later date) or increases the Exercise Price, or (b) reduces the percentage of Holders of outstanding Warrants the consent of who is required to modify, supplement or amend this Agreement.

Any modification, supplement or amendment pursuant to this Section 5.1 shall be binding upon all present and future Holders, whether or not they have consented to such modification, supplement or amendment, and whether or not notation of such modification, supplement or amendment is made upon any Warrant Certificate issued to such Holder.

SECTION 5.2. RECORD DATE.

The Company may set a record date for purposes of determining the identity of Holders entitled to consent to any modification, supplement or amendment to this Agreement. If the Company does not set a record date, the record date shall be 30 days prior to the first solicitation of such consent.

ARTICLE 6

MISCELLANEOUS PROVISIONS

SECTION 6.1 COUNTERPARTS.

This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, and all of which together shall constitute the same instrument.

SECTION 6.2 GOVERNING LAW.

THIS AGREEMENT AND THE WARRANT CERTIFICATES ISSUED HEREUNDER SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK, WITHOUT REGARD TO THE CONFLICT OF LAW PROVISIONS THEREOF.

SECTION 6.3 DESCRIPTIVE HEADINGS.

The descriptive headings of this Agreement are for convenience only and shall not control or affect the meaning or construction of any provision of this Agreement.

SECTION 6.4 NOTICES.

Any notice, request or other document permitted or required hereunder to be given to any Holder shall be sufficiently given if in writing and mailed first-class postage prepaid, to each Holder affected by such event, at its address as it appears in the Warrant Register. In any case where notice to Holders is given by mail, neither the failure to mail such notice, nor any defect in any notice so mailed, to any particular Holders shall affect the sufficiency of such notice with respect to other Holders. Any notice required hereunder to be given to any Holder may be waived in writing by the Person entitled to receive such notice, either before or after the event, and such waiver shall be the equivalent of such notice. Waivers of notice by Holders shall be filed with the Warrant Agent, but such filing shall not be a condition precedent to the validity of any action taken in reliance upon such waiver.

Any notice, request, waiver, consent or other document provided or permitted by this Agreement to be given to (i) the Warrant Agent by any Holder or by the Company shall be sufficient for every purpose hereunder if in writing and mailed, first-class postage prepaid or sent by facsimile, to and received by the Warrant Agent at its Corporate Trust Office, and (ii) the Company by the Warrant Agent or by any Holder shall be sufficient for every purpose hereunder (unless otherwise herein expressly provided) if in writing and mailed, first-class postage prepaid or sent by facsimile, to the Company at the address or facsimile number of its principal office specified in the first paragraph of this Agreement or at any other address or facsimile number previously furnished in writing to the Warrant Agent by the Company.

In the event the Warrant Agent shall receive any notice, demand or other document addressed to the Company by any Holder, the Warrant Agent shall promptly forward such notice or demand to the Company.

SECTION 6.5 MAINTENANCE OF OFFICE.

So long as any of the Warrants remain outstanding, the Company shall designate and maintain in the State of New York an office or agency where Warrant Certificates may be surrendered for registration of transfer or for exchange, where Warrants may be surrendered for exercise and where notices and demands to or upon the Company in respect of the Warrants and

this Warrant Agreement may be served. The Company may from time to time change or rescind such designation as it may deem desirable or expedient. The Company will give prompt written notice to the Warrant Agent of the location, and any change in the location, of such office or agency. The Company hereby designates the Corporate Trust Office of the Warrant Agent as the initial agency maintained for each such purpose. If at any time the Company shall fail to maintain any such required office or agency or shall fail to notify the Warrant Agent of the location thereof or of any change in the location thereof, such presentations, surrenders, notices and demands may be made or served at the Corporate Trust Office of the Warrant Agent, and the Company hereby appoints the Warrant Agent as its agent to receive all such presentations, surrenders, notices and demands.

The Company may also from time to time designate one or more other offices or agencies (in or outside the State of New York) where Warrant Certificates may be presented or surrendered for any or all such purposes and may from time to time rescind such designations; provided, however, that no such designation or rescission shall in any manner relieve the Company of its obligation to maintain an office or agency in the State of New York for such purposes. The Company shall give prompt written notice to the Warrant Agent of any such designation or rescission, and of any change in the location of, any such other office or agency.

SECTION 6.6 SUCCESSORS AND ASSIGNS.

All covenants and agreements in this Agreement by the Company shall bind its successors and assigns, whether so expressed or not.

SECTION 6.7 SEPARABILITY.

In case any provision in this Agreement or in the Warrant Certificates shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

SECTION 6.8 PERSONS HAVING RIGHTS UNDER AGREEMENT.

Nothing in this Agreement or in the Warrant Certificates, expressed or implied, is intended, or shall be construed, to give any Person, other than the parties hereto and their successors hereunder, and the Holders of Warrants, any benefit, right, remedy or claim under or by reason of this Agreement.

IN WITNESS WHEREOF, the Company and the Warrant Agent have caused this Agreement to be executed by their duly authorized officers as of the date set forth below.

ARBOR REALTY TRUST, INC.

By: /s/ Frederick C. Herbst

Frederick C. Herbst
Chief Financial Officer

Witness: Dated: July 1, 2003

By: /s/ Tymour Okasha

AMERICAN STOCK TRANSFER & TRUST COMPANY

By: /s/ George Karfunkel

Name: George Karfunkel
Title: Executive Vice President

Witness: Dated: July 1, 2003

By: /s/ Susan Silber

Name: Susan Silber
Title: Assistant Secretary

EXHIBIT A

FORM OF WARRANT CERTIFICATE

Certificate Number _____ Warrants

VOID AND EXPIRED AFTER 5:00 p.m. on July 1, 2005

WARRANTS TO PURCHASE
_____ SHARES OF COMMON STOCK

ARBOR REALTY TRUST, INC.

(1) UNLESS AND UNTIL EXCHANGED IN WHOLE OR IN PART FOR SECURITIES IN DEFINITIVE FORM, THE SECURITIES EVIDENCED HEREBY MAY NOT BE TRANSFERRED EXCEPT AS A WHOLE BY THE DEPOSITARY TO A NOMINEE OF THE DEPOSITARY OR BY A NOMINEE OF THE DEPOSITARY TO THE DEPOSITARY OR ANOTHER NOMINEE OF THE DEPOSITARY OR BY THE DEPOSITARY OR ANY SUCH NOMINEE TO A SUCCESSOR DEPOSITARY OR A NOMINEE OF SUCH SUCCESSOR DEPOSITARY. UNLESS THIS CERTIFICATE IS PRESENTED BY AN AUTHORIZED

REPRESENTATIVE OF THE DEPOSITORY TRUST COMPANY (55 WATER STREET, NEW YORK, NEW YORK) ("DTC") TO THE ISSUER OR ITS AGENT FOR REGISTRATION OF TRANSFER, EXCHANGE OR PAYMENT, AND ANY CERTIFICATE ISSUED IS REGISTERED IN THE NAME OF CEDE & CO. OR SUCH OTHER NAME AS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF DTC (AND ANY PAYMENT IS MADE TO CEDE & CO. OR SUCH OTHER ENTITY AS IS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF DTC), ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL INASMUCH AS THE REGISTERED OWNER HEREOF, CEDE & CO., HAS AN INTEREST HEREIN.(1)

(2) THE SECURITIES EVIDENCED HEREBY HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED(2) (THE "SECURITIES ACT"), OR ANY STATE SECURITIES LAWS. NEITHER THE SECURITIES EVIDENCED HEREBY NOR ANY INTEREST OR PARTICIPATION HEREIN MAY BE OFFERED, SOLD, ASSIGNED, TRANSFERRED, PLEDGED, ENCUMBERED OR OTHERWISE DISPOSED OF IN THE ABSENCE OF SUCH REGISTRATION OR UNLESS SUCH TRANSACTION IS EXEMPT FROM, OR NOT SUBJECT TO, REGISTRATION. THE HOLDER OF THIS CERTIFICATE BY ITS ACCEPTANCE HEREOF AGREES TO OFFER, SELL OR OTHERWISE TRANSFER ANY SECURITY EVIDENCED HEREBY, PRIOR TO THE DATE (THE "RESALE RESTRICTION TERMINATION DATE") THAT IS TWO YEARS

---

(1) Paragraph to be included in a Warrant Certificate issued in the form of a Global Warrant Certificate.

(2) Paragraph to be included in a Warrant Certificate representing Transfer Restricted Warrants.

AFTER THE LATER OF (X) THE ORIGINAL ISSUE DATE HEREOF AND (Y) THE LAST DATE ON WHICH THE COMPANY OR ANY AFFILIATED PERSON OF THE COMPANY WAS THE OWNER OF SUCH SECURITY (OR ANY PREDECESSOR OF SUCH SECURITY) ONLY (A) TO THE COMPANY, (B) PURSUANT TO A REGISTRATION STATEMENT THAT HAS BEEN DECLARED EFFECTIVE UNDER THE SECURITIES ACT, (C) FOR SO LONG AS THE SECURITY IS ELIGIBLE FOR RESALE PURSUANT TO RULE 144A, TO A PERSON IT REASONABLY BELIEVES IS A "QUALIFIED INSTITUTIONAL BUYER," AS SUCH TERM IS DEFINED IN, AND IN COMPLIANCE WITH, RULE 144A PROMULGATED UNDER THE SECURITIES ACT, THAT PURCHASES FOR ITS OWN ACCOUNT OR FOR THE ACCOUNT OF A QUALIFIED INSTITUTIONAL BUYER TO WHOM NOTICE IS GIVEN THAT THE TRANSFER IS BEING MADE IN RELIANCE ON RULE 144A, (D) TO AN INSTITUTIONAL "ACCREDITED INVESTOR" WITHIN THE MEANING OF SUBPARAGRAPH (a)(1), (2), (3), (7) OR (8) OF RULE 501 PROMULGATED UNDER THE SECURITIES ACT THAT IS ACQUIRING THE SECURITY FOR ITS OWN ACCOUNT, OR FOR THE ACCOUNT OF SUCH AN INSTITUTIONAL "ACCREDITED INVESTOR," FOR INVESTMENT PURPOSES AND NOT WITH A VIEW TO, OR FOR OFFER OR SALE IN CONNECTION WITH, ANY DISTRIBUTION IN VIOLATION OF THE SECURITIES ACT, (E) TO AN INDIVIDUAL "ACCREDITED INVESTOR" WITHIN THE MEANING OF SUBPARAGRAPH (a)(4), (5) OR (6) OF RULE 501 PROMULGATED UNDER THE SECURITIES ACT, OR (F) PURSUANT TO ANOTHER AVAILABLE EXEMPTION FROM THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT, SUBJECT TO THE COMPANY'S AND THE WARRANT AGENT'S RIGHT PRIOR TO ANY SUCH OFFER, SALE OR TRANSFER PURSUANT TO CLAUSES (D) OR (E), TO REQUIRE THE DELIVERY OF AN OPINION OF COUNSEL, CERTIFICATIONS AND OTHER INFORMATION SATISFACTORY TO EACH OF THEM. THIS LEGEND WILL BE REMOVED UPON THE REQUEST OF THE HOLDER AFTER THE RESALE RESTRICTION TERMINATION DATE.

This Warrant Certificate certifies that _____, or registered assigns, is the Holder of _____ Warrants (the "Warrants") to purchase shares of Common Stock, par value $0.01 per share (the "Common Stock"), of Arbor Realty Trust, Inc., a Maryland corporation (the "Company"). Each Warrant entitles the Holder, at any time on any Business Day during the Exercise Period (as defined in the Warrant Agreement), to purchase from the Company one share of Common Stock of the Company at an Exercise Price of $15.00 per share (as such Exercise Price may be amended in accordance with this Warrant Certificate or the Warrant Agreement) upon surrender of this Warrant Certificate and payment of the Exercise Price at any office or agency maintained for that purpose by the Company.

Any Warrants not exercised on or prior to 5:00 p.m., New York City time, on the Expiration Date shall thereafter be null and void.

THIS WARRANT CERTIFICATE SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK, WITHOUT REGARD TO THE CONFLICT OF LAW PROVISIONS THEREOF.

Reference is hereby made to the further provisions of this Warrant Certificate on the reverse hereof, which provisions shall for all purposes have the same effect as though fully set forth at this place.

This Warrant Certificate shall not be entitled to any benefit under the Warrant Agreement between the Company and American Stock Transfer & Trust Company, as Warrant Agent (the "Warrant Agreement") or valid for any purpose unless countersigned by the Warrant Agent.

IN WITNESS WHEREOF, the Company has caused this Warrant certificate to be duly executed and a facsimile of its corporate seal to be imprinted thereon.

Dated:

ARBOR REALTY TRUST, INC.

By: _____
Frederick C. Herbst
Chief Financial Officer

Attest: _____

AMERICAN STOCK TRANSFER & TRUST COMPANY,
as Warrant Agent

By: _____
Name:
Title:

Attest: _____

[Reverse Side]

The Warrants represented by this Warrant Certificate are part of a duly authorized issue of Warrants of Arbor Realty Trust, Inc. (the "Company") expiring 5:00 p.m., New York City time, on the Expiration Date. The Warrants represented hereby are issued pursuant to and are subject in all respects to the terms and conditions set forth in the Warrant Agreement (the "Warrant Agreement"), by and between the Company and American Stock Transfer & Trust Company (the "Warrant Agent"), which Warrant Agreement and any amendments thereto are hereby incorporated by reference in and made a part of this instrument, and to which reference is hereby made for a description of the respective rights, limitations of rights, obligations, duties and immunities thereunder of the Company, the Warrant Agent and the Holders of Warrants. A copy of the Warrant Agreement may be obtained from the Company at 333 Earle Ovington Boulevard, Suite 900, Uniondale, New York 11553, Attention: Frederick C. Herbst, or the Warrant Agent at American, Stock Transfer & Trust Company, Attention: Corporate Department, by a written request from the Holder hereof or which may be inspected by any Holder or such Holder's agent at the principal office of the Company or the Warrant Agent. [The Warrants represented hereby are entitled to the benefits of a Registration Rights Agreement dated as of July 1, 2003.](3) Subject to and upon compliance with the provisions of the Warrant Agreement, each Warrant entitles the Holder, at any time on any Business Day during the Exercise Period to purchase from the Company one share of Common Stock, $0.01 par value ("Common Stock") (or such other number of shares of Common Stock if an adjustment has been made as provided in the Warrant Agreement), of the Company at an Exercise Price of $15.00 per share (or at the current adjusted Exercise Price if an adjustment has been made as provided in the Warrant Agreement). The Warrants may be exercised upon the presentation and surrender of this Warrant Certificate to the Company at its office or agency maintained for that purpose, with the form of Notice of Exercise set forth hereon duly completed and executed, accompanied by payment of the Exercise Price for each such Warrant exercised and any other amounts required to be paid, as provided in the Warrant Agreement. In the event the holder exercising its Warrants holds an interest in a Global Warrant Certificate, such holder shall exercise Warrants owned of record by such holder and represented by a Global Warrant Certificate by delivering (i) proof of record ownership of such Warrants if required by the Company and (ii) a notice of exercise in substantially the form set forth below as appropriately adjusted. The Exercise Price shall be payable (i) by cash or certified or official bank check, (ii) by surrendering additional Warrants or

shares of Common Stock for cancellation to the extent that the Company may lawfully accept shares of Common Stock in the Company, or (iii) by such other means as is acceptable to the Company in the lawful currency of the United States of America which as of the time of payment is legal tender for payment of public or private debts. The value per share of Common Stock surrendered in accordance with this provision equals the current market price per share of Common Stock as defined in the Warrant Agreement as of the business day next preceding the date the Warrant is surrendered for exercise and the value of this Warrant being equal to the difference between such current market price and the Exercise Price. The Exercise Price and the

---

(3) Bracketed language to be included if the Warrant Certificate represents Transfer Restricted Warrants.

number and kind of securities or other property issuable upon exercise of each Warrant is subject to adjustment as provided in the Warrant Agreement.

Within five Business Days of the Company's receipt of notice from the Warrant Agent of the exercise of any Warrants, the Company shall issue and deliver, or cause to be delivered, to the Holder, at such office or agency maintained for such purpose pursuant to the Warrant Agreement, a certificate or certificates evidencing the number of full shares of Common Stock to which such Holder is entitled, registered in such name or names as may be directed by such Holder pursuant to the Notice of Exercise set forth on this Warrant Certificate. No fractional shares of Common Stock will be issued upon exercise of any Warrant, but instead of any fractional interest, the Company shall pay to the Holder a cash adjustment as provided in the Warrant Agreement.

In the case of the exercise of less than all the Warrants represented hereby, this Warrant Certificate shall be canceled upon the surrender hereof and a new Warrant Certificate or Warrant Certificates shall be issued and delivered for the balance of such Warrants represented hereby.

Prior to the exercise of any Warrant represented hereby, the Holder shall not be entitled to any rights of a stockholder of the Company by reason of such Person being a Holder, including, without limitation, the right to vote or to receive dividends or other distributions, and shall not be entitled to receive any notice of any proceedings of the Company, except as provided in the Warrant Agreement.

The Warrant Agreement permits, with certain exceptions as therein provided, the amendment thereof and the modification of the rights and obligations of the Company and the rights of the Holders of Warrants under the Warrant Agreement at any time by the Company and the Warrant Agent with the consent of the Holders of at least a majority of the Warrants at the time outstanding. Any such consent shall be conclusive and binding upon the Holder of this Warrant Certificate and upon all future Holders of any Warrant Certificate issued upon the registration of transfer of the Warrants evidenced hereby, or in exchange hereof or in lieu hereof, whether or not notation of such consent or waiver is made thereon. Notwithstanding the immediately preceding sentence, the Warrant Agreement provides that the consent in writing of each and every Holder shall be required for any such modification, supplement or amendment which (a) changes the Exercise Period (except to extend the expiration of the Exercise Period to a later date) or increases the Exercise Price, or (b) reduces the percentage of Holders of outstanding Warrants the consent of who is required to modify, supplement or amend the Warrant Agreement.

As provided in the Warrant Agreement and subject to the limitations set forth therein, transfer of the Warrants represented by this Warrant Certificate is registrable upon surrender of this Warrant Certificate at the office or agency of the Company maintained for that purpose, and thereupon one or more new Warrant Certificates representing the Warrants so transferred will be issued to the designated transferee or transferees. As provided in the Warrant Agreement and subject to the limitations set forth therein, this Warrant Certificate is exchangeable for new Warrant Certificates representing a like number of Warrants, as requested by the Holder surrendering the same.

No service charge shall be payable by a Holder for any such registration of transfer or exchange, but the Company shall require payment of a sum sufficient to cover any tax or other governmental charge payable in connection therewith.

Prior to due presentment of this Warrant Certificate for registration of transfer, the Company and the Warrant Agent and any agent of the Company or the Warrant Agent may treat the Person in whose name this Warrant Certificate is registered as the absolute, true and lawful owner hereof and of the Warrants represented hereby (notwithstanding any notation or ownership or other writing hereon made by any Person) for all purposes, and shall not be affected by any notice or knowledge to the contrary.

All terms used in this Warrant Certificate which are defined in the Warrant Agreement shall have the meanings assigned to them in the Warrant Agreement.

NOTICE OF EXERCISE

The undersigned hereby irrevocably elects to exercise _____ of the Warrants represented by this Warrant Certificate and purchase the whole number of shares issuable and deliverable upon exercise of such Warrants, and herewith tenders payment for such shares in accordance with the terms of the Warrant Agreement. The undersigned hereby directs that the certificate or certificates for the shares issuable and deliverable upon exercise, together with any check in payment for fractional shares and any Warrant Certificate representing any unexercised Warrants represented by this Warrant Certificate, be issued in the name of and delivered to the undersigned, unless a different name is indicated below. The undersigned will pay any transfer taxes or other governmental charge payable with respect to any such shares to be issued in the name of a person other than the undersigned.

INSTRUCTIONS FOR REGISTRATION OF SHARES
(please typewrite or print)

Name: _____
Address: _____
Social Security or Other Taxpayer Identification Number: _____
Dated: _____

Signature: _____
Note: Signature must conform to name of Holder appearing on face hereof)

Signature must be guaranteed by a member of an accepted medallion guarantee program if shares of Common Stock are to be issued, or Warrant Certificate(s) are to be delivered, other than to and in the name of the Holder.

_____
Signature Guarantee

Fill in for registration of shares of Common Stock and Warrant Certificate(s) if to be issued otherwise than to the Holder:

_____ Social Security or other
(Name) Taxpayer Identification Number:

_____ _____
(Name)

_____ _____
Please print name and address
(including zip code)

EXHIBIT B

TRANSFER INSTRUCTION

RE: ARBOR REALTY TRUST, INC. WARRANTS

Reference is made to the Warrant Agreement dated as of July 1, 2003, relating to the Warrants (the "Agreement"). This Instruction and Certification relates to Warrants held by _____ (the "Transferor/Holder"). Capitalized terms not otherwise defined herein have the meanings set forth in the Agreement.

Instruction of Transfer or Exchange
(to be completed whether or not the Warrants to be transferred or exchanged are Transfer Restricted Warrants)

1. The Transferor/Holder hereby instructs the Warrant Agent to (check one box):

[ ] Transfer or exchange one or more Definitive Warrant Certificates in accordance with Section 3.3(c) of the Agreement; or

[ ] Transfer one or more Definitive Warrant Certificates for a beneficial interest in a Global Warrant Certificate in accordance with Section 3.3(d) of the Agreement; or

[ ] Transfer or exchange a beneficial interest in a Global Warrant Certificate for one or more Definitive Warrant Certificates in accordance with Section 3.3(e) of the Agreement; or

[ ] Transfer a beneficial interest in the Restricted Global Warrant Certificate for a beneficial interest in the Unrestricted Global Warrant Certificate in accordance with Section 3.3(f) of the Agreement.

2. The Transferor/Holder has requested Definitive Warrant Certificates above and hereby further instructs the Warrant Agent to issue such Definitive Warrant Certificates without the restrictive legends referenced in Section 3.3(i) of the Agreement (check box if applicable): [ ]

CERTIFICATION

(to be completed for a transfer or exchange of Transfer Restricted Warrants only)

3. In connection with the transfer or exchange requested above, the Transferor/Holder does hereby certify that (check one box):

[ ] One or more Definitive Warrant Certificates, or an interest in a Global Warrant Certificate, is being obtained by the Transferor/Holder, without transfer or change in beneficial ownership (in accordance with Section 3.3(c)(ii)(1) or Section 3.3(e)(ii)(1) of the Agreement); or

[ ] one or more Definitive Warrant Certificates, or an interest in a Global Warrant Certificate, is being transferred pursuant to an effective registration statement under the Securities Act (in satisfaction of Section 3.3(c)(ii)(2), Section 3.3(d)(ii)(2), Section 3.3(e)(ii)(2) or Section 3.3(f) of the Agreement).

[ ] one or more Definitive Warrant Certificates, or an interest in a Global Warrant Certificate, is being transferred to a "qualified institutional buyer" (as defined in Rule 144A) in reliance on Rule 144A (in satisfaction of Section 3.3(c)(ii)(3), Section 3.3(d)(ii)(1) or Section 3.3(e)(ii)(3); or

[ ] one or more Definitive Warrant Certificates, or an interest in a Global Warrant Certificate, is being obtained in reliance on and in compliance with an exemption from the registration requirements of the Securities Act, other than Rule 144A under the Securities Act, and an opinion of counsel to the effect that such transfer complies with, and does not require registration under, the Securities Act accompanies this Instruction and Certification (in satisfaction of Section 3.3(c)(ii)(4), Section 3.3(d)(ii)(2), Section 3.3(e)(ii)(4) or Section 3.3(f) of the Agreement.

[INSERT NAME OF TRANSFEROR/HOLDER]

Date: _____ By: _____

EXHIBIT 4.5

REGISTRATION RIGHTS AGREEMENT

BY AND BETWEEN

ARBOR REALTY TRUST, INC.

AND

JMP SECURITIES LLC

REGISTRATION RIGHTS AGREEMENT

This REGISTRATION RIGHTS AGREEMENT (the "Agreement") is made and entered into as of July 1, 2003, by and between ARBOR REALTY TRUST, INC., a Maryland corporation (the "Company") and JMP SECURITIES LLC, a Delaware limited liability company ("JMP"), for the benefit of (i) JMP and purchasers from JMP as initial purchaser under the Purchase/Placement Agreement (as defined below) of units of the Company (the "Units"), each of which consists of five (5) shares of the Company's $.01 par value per share common stock ("Common Stock") and one warrant (each a "Warrant" or collectively the "Warrants") to purchase a share of Common Stock; (ii) the participants ("Participants") in the private placement by the Company of the Units; and (iii) each of their respective direct and indirect transferees.

This Agreement is made pursuant to the Purchase/Placement Agreement (the "Purchase/Placement Agreement"), dated June 26, 2003, by and between the Company, Arbor Realty Limited Partnership, Arbor Commercial Mortgage, LLC and JMP. In order to induce JMP to enter into the Purchase/Placement Agreement, the Company has agreed to provide the registration rights provided for in this Agreement to JMP, the Participants and their direct and indirect transferees. The execution of this Agreement is a condition to the closing of the transactions contemplated by the Purchase/Placement Agreement.

The parties hereby agree as follows:

1. DEFINITIONS

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

Additional Dividends: As defined in Section 5(d) hereof.

Affiliate: As to any specified Person, (i) any Person directly or indirectly controlling, controlled by or under common control with such other Person and (ii) any executive officer, director, trustee or general partner of such Person.

Business Day: With respect to any act to be performed hereunder, each Monday, Tuesday, Wednesday, Thursday and Friday that is not a day on which banking institutions in New York, New York or other applicable place where such act is to occur are authorized or obligated by applicable law, regulation or executive order to close.

Commission: The Securities and Exchange Commission.

Common Stock: As defined in the preamble.

Company: As defined in the preamble.

Controlling Person: As defined in Section 6(a) hereof.

End Of Suspension Notice: As defined in Section 5(b) hereof.

Exchange Act: The Securities Exchange Act of 1934, as amended, and the rules and regulations promulgated by the Commission pursuant thereto.

Holder: Each record owner of any Registrable Securities from time to time, including JMP and its Affiliates.

Indemnified Party: As defined in Section 6(c) hereof.

Indemnifying Party: As defined in Section 6(c) hereof.

Ipo Registration Statement: As defined in Section 2 hereof.

Liabilities: As defined in Section 6(a) hereof.

NASD: The National Association of Securities Dealers, Inc.

Participants: As defined in the preamble.

Partnership Units: As defined in the preamble.

Person: An individual, partnership, corporation, trust, unincorporated organization, government or agency or political subdivision thereof, or any other legal entity.

Proceeding: An action, claim, suit or proceeding (including without limitation, an investigation or partial proceeding, such as a deposition), whether commenced or, to the knowledge of the Person subject thereto, threatened.

Prospectus: The prospectus included in any Registration Statement, including any preliminary prospectus, and all other amendments and supplements to any such prospectus, including post-effective amendments, and all material incorporated by reference or deemed to be incorporated by reference, if any, in such prospectus.

Purchaser Indemnitee: As defined in Section 6(a) hereof.

Purchase/Placement Agreement: As defined in the preamble.

Registrable Securities: All or any portion of the Units, the shares of Common Stock comprising the Units, the Warrants, and the shares of Common Stock underlying the Warrants issued from time to time upon original issuance thereof and at all times subsequent thereto, including upon the transfer thereof by the original Holder or any subsequent Holder and any securities issued in respect of such securities by reason of or in connection with any exchange for or replacement of such securities or any stock dividend, stock distribution, stock split, purchase in any rights offering or in connection

with any combination of shares, recapitalization, merger or consolidation, or any other equity securities issued pursuant to any other pro rata distribution with respect to the Common Stock, until, in the case of any such securities, the earliest to occur of (a) the date on which it has been registered effectively pursuant to the Securities Act and disposed of in accordance with the Registration Statement relating to it, (b) the date on which either it is distributed to the public pursuant to Rule 144 or is saleable pursuant to Rule 144(k) promulgated by the Commission pursuant to the Securities Act or (c) the date on which it is sold to the Company.

Registration Default: As defined in Section 5(d) hereof.

Registration Expenses: Any and all expenses incident to the performance of or compliance with this Agreement, including, without limitation: (i) all Commission, securities exchange, NASD registration, listing, inclusion and filing fees, (ii) all fees and expenses incurred in connection with compliance with international, federal or state securities or blue sky laws (including, without limitation, any registration, listing and filing fees and 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, duplicating, printing, delivering and distributing any Registration Statement, any Prospectus, any amendments or supplements thereto, any underwriting agreements, securities sales agreements, certificates and any other documents relating to the performance under and compliance with this Agreement, (iv) all fees and expenses incurred in connection with the listing or inclusion of any of the Registrable Securities on

any securities exchange or The Nasdaq Stock Market pursuant to Section 4(n) of this Agreement, (v) the fees and disbursements of counsel for the Company and of the independent public accountants (including, without limitation, the expenses of any special audit and "cold comfort" letters required by or incident to such performance), and reasonable fees and disbursements of one counsel for the selling Holders and (vi) any fees and disbursements customarily paid in issues and sales of securities (including the fees and expenses of any experts retained by the Company in connection with any Registration Statement), but excluding brokers' or underwriters' discounts and commissions, if any, relating to the sale or disposition of Registrable Securities by a Holder.

Registration Statement: Any registration statement of the Company that covers the resale of Registrable Securities pursuant to the provisions of this Agreement, including the Prospectus, amendments and supplements to such registration statement or Prospectus, including pre- and post-effective amendments, all exhibits thereto and all material incorporated by reference or deemed to be incorporated by reference, if any, in such registration statement.

Rule 144: Rule 144 promulgated by the Commission pursuant to the Securities Act, as such Rule may be amended from time to time, or any similar Rule or regulation hereafter adopted by the Commission as a replacement thereto having substantially the same effect as such rule.

Rule 144A: Rule 144A promulgated by the Commission pursuant to the Securities Act, as such Rule may be amended from time to time, or any similar Rule or regulation hereafter adopted by the Commission as a replacement thereto having substantially the same effect as such rule.

Rule 158: Rule 158 promulgated by the Commission pursuant to the Securities Act, as such Rule may be amended from time to time, or any similar Rule or regulation hereafter adopted by the Commission as a replacement thereto having substantially the same effect as such rule.

Rule 415: Rule 415 promulgated by the Commission pursuant to the Securities Act, as such Rule may be amended from time to time, or any similar Rule or regulation hereafter adopted by the Commission as a replacement thereto having substantially the same effect as such rule.

Rule 424: Rule 424 promulgated by the Commission pursuant to the Securities Act, as such Rule may be amended from time to time, or any similar Rule or regulation hereafter adopted by the Commission as a replacement thereto having substantially the same effect as such rule.

Rule 429: Rule 429 promulgated by the Commission pursuant to the Securities Act, as such Rule may be amended from time to time, or any similar Rule or regulation hereafter adopted by the Commission as a replacement thereto having substantially the same effect as such rule.

Securities Act: The Securities Act of 1933, as amended, and the rules and regulations promulgated by the Commission pursuant thereto.

Shelf Registration Statement: As defined in Section 2 hereof.

Suspension Event: As defined in Section 5(b) hereof.

Suspension Notice: As defined in Section 5(b) hereof.

Underwritten Offering: A sale of securities of the Company on a firm-commitment basis to an underwriter or underwriters for reoffering to the public.

Units: As defined in the Preamble

Warrants: As defined in the Preamble.

2. REGISTRATION RIGHTS

As set forth in Section 4 hereof, the Company agrees to file with the Commission no later than December 31, 2003 and to use its best efforts to cause to be declared effective by the Commission on or before December 31, 2003, but in any event no later than June 30, 2004, either (i) a Registration Statement on

Form S-11 or such other form under the Securities Act providing for the initial public offering of shares of Common Stock (an "IPO Registration Statement"), which IPO Registration Statement will provide for the resale by the Holders of any and all Registrable Securities (subject to Section 2(a)(ii) hereof) or (ii) subject to Section 2(b) hereof, a shelf Registration Statement on Form S-11 or such other form under the Securities Act then available to the Company providing for the resale pursuant to Rule 415 from time to time by the Holders of any and all Registrable Securities (a "Shelf Registration Statement").

(a) IPO REGISTRATION. If the Company files an IPO Registration Statement, the Company will notify each Holder of the proposed filing and afford each Holder of Registrable Securities an opportunity to include in such IPO Registration Statement all or any part of the Registrable Securities then held by such Holder. Each Holder desiring to include in any such IPO Registration Statement all or part of the Registrable Securities held by such Holder shall, within twenty (20) days after receipt of the above-described notice from the Company, so notify the Company of the number of Registrable Securities such Holder wishes to include in such IPO Registration Statement and complete, sign and return the selling stockholder questionnaire included with the notice.

(i) RIGHT TO TERMINATE REGISTRATION. The Company shall have the right to terminate or withdraw any IPO Registration Statement initiated by it prior to its effectiveness whether or not any Holder has elected to include Registrable Securities in such registration.

(ii) UNDERWRITING. If an IPO Registration Statement is for an Underwritten Offering, then the Company shall so advise the Holders of Registrable Securities. In such event, the right of any such Holder's Registrable Securities to be included in a registration pursuant to this Section 2(a) shall be conditioned upon such Holder's participation in such underwriting and the inclusion of such Holder's Registrable Securities in the underwriting to the extent provided herein. All Holders proposing to distribute their Registrable Securities through such underwriting shall enter into an underwriting agreement in customary form with the representatives of underwriters selected for such underwriting and complete and execute any questionnaires, powers of attorney, indemnities, 90 day lock-up agreements, securities escrow agreements and other documents reasonably required under the terms of such underwriting, and furnish to the Company such information as the Company may reasonably request in writing for inclusion in the Registration Statement; provided, however, that no Holder shall be required to make any representations or warranties to or agreements with the Company or the underwriters other than representations, warranties or agreements

regarding such Holder and such Holder's intended method of distribution for the securities to be registered and any other representation required by law. Notwithstanding any other provision of this Agreement, if the representatives of the underwriters determine in good faith that marketing factors require a limitation on the number of shares to be underwritten, then the representatives of the underwriters may exclude securities (including Registrable Securities of Holders) from the registration, and the underwriting shall be allocated among the Company and all Holders pro rata on the basis of Registrable Securities offered for such registration by the Company and each Holder electing to participate in such registration. If any Holder disapproves of the terms of any such underwriting, such Holder may elect to withdraw therefrom by notice to the Company and the underwriter, delivered at least five (5) Business Days prior to the effective date of the Registration Statement. Any Registrable Securities excluded or withdrawn from such underwriting shall be excluded and withdrawn from the registration.

(iii) HOLD-BACK AGREEMENT. By electing to include Registrable Securities in any registration pursuant to this Section 2(a), the Holder of the Registrable Securities shall be deemed to have agreed not to effect any public sale or distribution of securities of the Company of the same or similar class or classes of the securities included in the Registration Statement or any securities convertible into or exchangeable or exercisable for such securities, including a sale pursuant to Rule 144 or Rule 144A under the Securities Act, during such periods as reasonably requested (but in no event for a period longer than thirty (30) days prior to and one hundred eighty (180) days

following the effective date of the IPO Registration Statement) by the representatives of the underwriters, if an Underwritten Offering, or by the Company in any other registration.

(iv) REGISTRABLE SECURITIES NOT SOLD UNDER IPO REGISTRATION STATEMENT. If (w) the Company terminates or withdraws the IPO Registration Statement prior to its effectiveness or the distribution of all Registrable Securities, if any, registered thereunder, (x) the underwriters exercise their right pursuant to Section 2(a)(ii) of this Agreement to exclude any Registrable Securities from the IPO Registration Statement, (y) any Holder elects to withdraw or not to include any Registrable Securities in the IPO Registration Statement, or (z) any Registrable Securities are otherwise not registered under and distributed pursuant to the IPO Registration Statement, then the Company shall file a Shelf Registration Statement relating to any Registrable Securities not registered under and distributed pursuant to an IPO Registration Statement as soon as practicable, but in no event later than (a) in the case of the withdrawal or abandonment of the offering pursuant to the IPO Registration Statement, the date which is the later of December 31, 2003 or thirty (30) days after the earlier of the withdrawal or abandonment of the offering pursuant to the IPO Registration Statement or (b) the date one hundred eighty (180) days after the consummation of the offering pursuant to the IPO Registration Statement.

(b) SHELF REGISTRATION. If the Company elects to file a Shelf Registration Statement or is otherwise required to file a Shelf Registration Statement pursuant to this Section 2, it shall notify each Holder of the proposed filing and afford each Holder an opportunity to include in such Shelf Registration Statement all or any part of the Registrable Securities then held by such Holder. Each Holder desiring to include in any such Shelf Registration Statement all or part of the Registrable Securities held by such Holder shall, within twenty (20) days after receipt of the above-described notice from the Company, so notify the Company of the number of Registrable Securities such Holder wishes to include in such Shelf Registration Statement and complete, sign and return the selling stockholder questionnaire included with the notice. The Company shall cause the Shelf Registration Statement to be declared effective by the Commission no later than June 30, 2004 or, in the case of a Shelf Registration Statement filed pursuant to Section 2(a)(iv), within eighty (80) days after the filing thereof with the Commission. Any Shelf Registration Statement shall provide for the resale from time of time, and pursuant to any method or combination of methods legally available (including, without limitation, an Underwritten Offering, a direct sale to purchasers, a sale through brokers or agents, or a sale over the internet) by the Holders of any and all Registrable Securities.

(c) EXPENSES. The Company shall pay all Registration Expenses in connection with the registration of the Registrable Securities pursuant to this Agreement. Each Holder participating in a registration pursuant to this Section 2 shall bear such Holder's proportionate share (based on the total number of Registrable Securities sold in such registration) of all discounts, commissions or other amounts payable to underwriters or brokers in connection with a registration of Registrable Securities pursuant to this Agreement.

3. RULES 144 AND 144A REPORTING

With a view to making available the benefits of certain rules and regulations of the Commission that may at any time permit the sale of the Registrable Securities to the public without registration, the Company agrees to:

(a) make available adequate current public information, as defined in Rule 144, at all times after the one year has elapsed from the date of this Agreement and any Registrable Securities are not eligible for resale under Rule 144(k) promulgated by the Commission;

(b) file with the Commission in a timely manner all reports and other documents required to be filed by the Company under the Securities Act and the Exchange Act (at any time after it has become subject to such reporting requirements);

(c) so long as a Holder owns any Registrable Securities, if the Company is not required to file reports and other documents under the Securities

Act and the Exchange Act, it will make available other information as required by, and so long as necessary to permit sales of Registrable Securities pursuant to, Rule 144 or Rule 144A; and

(d) so long as a Holder owns any Registrable Securities, to furnish to the Holder promptly upon request a written statement by the Company as to its compliance with the reporting requirements of Rule 144 (at any time prior to ninety (90) days after the effective date of the first Registration Statement filed by the Company for an offering of its securities to the general public), and of the Securities Act and the Exchange Act (at any time after it has become subject to the reporting requirements of the Exchange Act), a copy of the most recent annual or quarterly report of the Company, and such other reports and documents of the Company, and take such further actions, as a Holder may reasonably request in availing itself of any Rule or regulation of the Commission allowing a Holder to sell any such Registrable Securities without registration.

4. REGISTRATION PROCEDURES

In connection with the obligations of the Company with respect to any registration pursuant to this Agreement, the Company shall use its best efforts to effect or cause to be effected the registration of the Registrable Securities under the Securities Act to permit the sale of such Registrable Securities by the Holder or Holders in accordance with the Holder's or Holders' intended method or methods of distribution, and the Company shall:

(a) prepare and file with the Commission, as specified in this Agreement, a Registration Statement, which Registration Statement shall comply as to form in all material respects with the requirements of the applicable form and include all financial statements required by the Commission to be filed therewith, and use its best efforts to cause such Registration Statement to become effective as soon as practicable after filing and to remain effective, subject to Section 5 hereof, until the earlier of (i) the date on which all such Registrable Securities are sold in accordance with the intended distribution of such Registrable Securities, (ii) none of the Units, the shares of Common Stock comprising the Units, the Warrants or the shares of Common Stock underlying the Warrants or any portion thereof are Registrable Securities or (iii) the second anniversary of the effective date of such Registration Statement (subject to extension as provided in Section 5(c) hereof), provided, however, that the Company shall not be required to cause any IPO Registration Statement to remain effective for any period longer than ninety (90) days following the effective date of such IPO Registration Statement (subject to extension as provided in Section 5(c) hereof); provided, further, that if the Company has an effective Shelf Registration Statement on Form S-11 under the Securities Act and becomes eligible to use Form S-3 or such other short-form registration statement form under the Securities Act, the Company may, upon thirty (30) Business Days prior notice to all Holders of Registrable Securities, register any Registrable Securities registered but not yet distributed under the effective Shelf Registration Statement on such a short-form Shelf Registration Statement and, once the short-form Shelf Registration Statement is declared effective, de-register such shares under the previous Registration Statement or transfer the filing fees from the previous Shelf Registration Statement (such transfer pursuant to Rule 429, if applicable) unless any Holder of Registrable Securities registered under the initial Shelf Registration Statement notifies the Company within twenty (20) Business Days of receipt of the Company notice that such a registration under a new Shelf Registration Statement and de-registration of the initial Shelf Registration

Statement would interfere with its distribution of Registrable Securities already in progress; the Company shall furnish at a reasonable time prior to the filing thereof with the Commission, a copy of any Registration Statement and each amendment or supplement, if any, to the Prospectus included therein (including any documents incorporated by reference therein) and shall use its best efforts to reflect in each such document, when so filed with the Commission, such comments as JMP or such other representative of all the Holders may reasonably propose.

(b) subject to Section 4(i) of this Agreement, (i) prepare and file with the Commission such amendments and post-effective amendments to each such Registration Statement as may be necessary to keep such Registration Statement effective for the period described in Section 4(a) hereof; (ii) cause

each Prospectus contained therein to be supplemented by any required Prospectus supplement, and as so supplemented to be filed pursuant to Rule 424; and (iii) comply in all material respects with the provisions of the Securities Act with respect to the disposition of all securities covered by each Registration Statement during the applicable period in accordance with the intended method or methods of distribution by the selling Holders thereof;

(c) furnish to the Holders of Registrable Securities, without charge, as many copies of each 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 the Holders of Registrable Securities, if any, in connection with the offering and sale of the Registrable Securities covered by any such Prospectus;

(d) use its best efforts to register or qualify, or obtain exemption from the registration or qualification requirements for, all Registrable Securities by the time the applicable Registration Statement is declared effective by the Commission under all applicable state securities or "blue sky" laws of such jurisdictions as JMP shall reasonably request in writing, keep each such registration or qualification or exemption effective during the period such Registration Statement is required to be kept effective pursuant to Section 4(a) and do any and all other acts and things that 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 to (i) qualify generally to do business in any jurisdiction or to register as a broker or dealer in such jurisdiction where it would not otherwise be required to qualify but for this Section 4(d) and except as may be required by the Securities Act, (ii) subject itself to taxation in any such jurisdiction, or (iii) submit to the general service of process in any such jurisdiction;

(e) use its best efforts to cause all Registrable Securities covered by such Registration Statement to be registered and approved by such other governmental agencies or authorities as may be necessary to enable the Holders thereof to consummate the disposition of such Registrable Securities;

(f) notify JMP and each Holder of Registrable Securities promptly and, if requested by JMP or any Holder, confirm such advice in writing (i) when a Registration Statement has become effective, when any post-effective amendments become effective or upon the filing of a supplement to any Prospectus, (ii) of the issuance by the Commission or any state securities authority of any stop order suspending the effectiveness of a Registration Statement or the initiation of any Proceeding for that purpose, (iii) of any request by the Commission or any other federal or state governmental authority for amendments or supplements to a Registration Statement or related Prospectus or for additional information (such notice to be accompanied by an instruction to suspend the use of the Prospectus until the requisite changes have been made), (iv) of the happening of any event during the period a Registration Statement is effective as a result of which such Registration Statement or the related Prospectus or any document incorporated by reference therein 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, or any document incorporated by reference therein, in light of the circumstances under which they were made) not misleading (such notice to be accompanied by an instruction to suspend the use of the Prospectus until the requisite changes have been made) and (v) at the request of any such Holder, promptly to furnish to such Holder a reasonable number of copies of a supplement to or an amendment of such Prospectus as may be necessary so that, as thereafter delivered to the purchaser of such securities, such Prospectus shall not include an untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein, in light of the circumstances under which they were made, not misleading;

(g) make every reasonable effort to avoid the issuance of, or if issued, to obtain the withdrawal of, any order enjoining or suspending the use or effectiveness of a Registration Statement or suspending the qualification (or exemption from qualification) of any of the Registrable Securities for sale in any jurisdiction, as promptly as practicable;

(h) upon request, furnish to each requesting Holder of Registrable Securities, without charge, at least one conformed copy of each Registration

Statement and any post-effective amendment or supplement thereto (including documents incorporated therein by reference or exhibits thereto, if requested);

(i) except as provided in Section 5, upon the occurrence of any event contemplated by Section 4(f)(iv) hereof, prepare as promptly as practicable a supplement or post-effective amendment to a Registration Statement or the 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 light of the circumstances under which they were made, not misleading;

(j) if requested by the representative of the underwriters, if any, or any Holders of Registrable Securities being sold in connection with such offering, (i) as promptly as practicable incorporate in a Prospectus supplement or post-effective amendment such information as the representative of the underwriters, if any, or such Holders indicate relates to them or otherwise reasonably request be included therein and (ii) make all required filings of such Prospectus supplement or such post- effective amendment as soon as practicable after the Company has received notification of the matters to be incorporated in such Prospectus supplement or post-effective amendment;

(k) use its best efforts to furnish to each Holder of Registrable Securities covered by a Registration Statement for an Underwritten Offering and the underwriters a signed counterpart, addressed to each such Holder and the underwriters of: (i) an opinion of counsel for the Company, dated as of the date of each closing of the sale of Registrable Securities pursuant to such Registration Statement for an Underwritten Offering, reasonably satisfactory to the underwriters, covering such matters as are customarily covered in opinions delivered to underwriters in underwritten public offerings of securities; and (ii) a "comfort" letter, dated the effective date of such Registration Statement for an Underwritten Offering and the date of each closing under the underwriting agreement, signed by the independent public accountants who have certified the Company's financial statements included in such Registration Statement for an Underwritten Offering, covering substantially the same matters with respect to such Registration Statement for an Underwritten Offering (and the Prospectus included therein) and with respect to events subsequent to the date of such financial statements, as are customarily covered in accountants' letters delivered to underwriters in underwritten public offerings of securities and such other financial matters as the underwriters may reasonably request;

(l) enter into customary agreements (including in the case of an Underwritten Offering, an underwriting agreement in customary form) and take all other action in connection therewith in order to expedite or facilitate the distribution of the Registrable Securities included in such Registration Statement and, in the case of an Underwritten Offering, make representations and warranties to the underwriters in such form and scope as are customarily made by issuers to underwriters in underwritten offerings, to make the same representations and warranties to the Holders of Registrable Securities covered by such Registration Statement and confirm the same to the extent customary if and when requested;

(m) make available for inspection by one representative of the Holders and the representative of any underwriters participating in any disposition pursuant to a Registration Statement and one law firm and one accounting firm retained by each representative of such Holders or underwriters, all financial and other records, corporate documents and properties of the Company and cause the officers, directors and employees of the Company to supply all information reasonably requested by any such representative, the representative of the underwriters, counsel thereto or accountants in connection with a Registration Statement; provided, however, that such records, documents or information that the Company determines, in good faith, to be confidential

and notifies such representatives, representative of the underwriters, counsel thereto or accountants are confidential shall not be disclosed by the representatives, representative of the underwriters, counsel thereto or accountants unless (i) the disclosure of such records, documents or information is necessary to avoid or correct a material misstatement or omission in a Registration Statement or Prospectus, (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 by the Company;

(n) use its best efforts (including, without limitation, seeking to cure any deficiencies cited by the exchange or market in the Company's listing or inclusion application) to list or include all Registrable Securities on the Nasdaq Stock Market (unless the Company qualifies and chooses to list all Registrable Securities on the New York Stock Exchange, in which event the Company shall use its best efforts to list all Registrable Securities on the New York Stock Exchange);

(o) prepare and file in a timely manner all documents and reports required by the Exchange Act and, to the extent the Company's obligation to file such reports pursuant to Section 15(d) of the Exchange Act expires prior to the expiration of the effectiveness period of the Registration Statement as required by Section 4(a) hereof, the Company shall register the class of securities represented by the Registrable Securities under the Exchange Act and shall maintain such registration through the effectiveness period required by Section 4(a) hereof;

(p) provide a CUSIP number for the class of securities represented by the Registrable Securities, not later than the effective date of the Registration Statement;

(q) (i) otherwise use its reasonable best efforts to comply with all applicable rules and regulations of the Commission, (ii) make generally available to its stockholders, as soon as reasonably practicable, earnings statements covering at least twelve (12) months beginning after the effective date of the Registration Statement that satisfy the provisions of Section 11(a) of the Securities Act and Rule 158 thereunder, no later than forty-five (45) days after the end of each fiscal year of the Company and (iii) not file any Registration Statement or Prospectus or amendment or supplement to such Registration Statement or Prospectus to which the Holders of at least 66 and 2/3% of Registrable Securities covered by any Registration Statement shall have reasonably objected on the grounds that such Registration Statement or Prospectus or amendment or supplement does not comply in all material respects with the requirements of the Securities Act, such Holders having been furnished with a copy thereof at least two (2) Business Days prior to the filing thereof;

(r) provide and cause to be maintained a registrar and transfer agent for all Registrable Securities covered by any Registration Statement from and after a date not later than the effective date of such Registration Statement;

(s) in connection with any sale or transfer of the Registrable Securities (whether or not pursuant to a Registration Statement) that will result in the security being delivered no longer being Registrable Securities, cooperate with the Holders and the representative of the underwriters, if any, to facilitate the timely preparation and delivery of certificates representing the Registrable Securities to be sold, which certificates shall not bear any transfer restrictive legends and to enable such Registrable Securities to be in such denominations and registered in such names as the representative of the underwriters, if any, or the Holders may request at least two (2) Business Days prior to any sale of the Registrable Securities; and

(t) upon effectiveness of the first Registration Statement filed under this Agreement, the Company will take such actions and make such filings as are necessary to effect the registration of the Common Stock under the Exchange Act simultaneously with or immediately following the effectiveness of the Registration Statement.

The Company may require the Holders of Registrable Securities to furnish to the Company 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 or as shall be required to effect the registration of the Registrable Securities and no Holder shall be entitled to be named as a selling stockholder in any Registration Statement and no Holder shall be entitled to use the Prospectus forming a part thereof if such Holder does not provide such information to the Company.

Each Holder agrees that, upon receipt of any notice from the Company of the happening of any event of the kind described in Section 4(f)(iii) or 4(f)(iv) hereof, such Holder will immediately discontinue disposition of

Registrable Securities pursuant to a Registration Statement until such Holder's receipt of the copies of the supplemented or amended Prospectus. 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.

5. BLACK-OUT PERIOD; ADDITIONAL DIVIDENDS

(a) Subject to the provisions of this Section 5 and a good faith determination by a majority of the Board of Directors of the Company that it is in the best interests of the Company to suspend the use of the Registration Statement, following the effectiveness of a Registration Statement (and the filings with any international, federal or state securities commissions), the Company, by notice to JMP and to the Holders, may direct the Holders to suspend sales of the Registrable Securities pursuant to the Registration Statement for a period not to exceed thirty (30) days in any three month period or ninety (90) days in the aggregate in any twelve (12) month period, if any of the following events shall occur: (i) a primary Underwritten Offering by the Company where the Company is advised by the representative of the underwriters for such Underwritten Offering that the sale of Registrable Securities pursuant to the Registration Statement would have a material adverse effect on the Company's primary offering; or (ii) pending negotiations relating

to, or the consummation of, a transaction or the occurrence of an event (x) that would require additional disclosure of material information by the Company in the Registration Statement (or such filings) and which has not been so disclosed, (y) as to which the Company has a bona fide business purpose for preserving confidentiality, or (z) that renders the Company unable to comply with Commission requirements, in each case under circumstances that would make it unduly burdensome to cause the Registration Statement (or such filings) to become effective or to promptly amend or supplement the Registration Statement on a post-effective basis, as applicable. Upon the occurrence of any such suspension, the Company shall use its best efforts to cause the Registration Statement to become effective or to promptly amend or supplement the Registration Statement on a post-effective basis or to take such action as is necessary to make resumed use of the Registration Statement compatible with the Company's best interests, as applicable, so as to permit the Holders to resume sales of the Registrable Securities as soon as possible.

(b) Subject to the limitations in Section 5(a), in the case of an event that causes the Company to suspend the effectiveness of a Registration Statement pursuant to Section 5(a) (a "Suspension Event"), the Company shall give notice (a "Suspension Notice") to JMP and to the Holders to suspend sales of the Registrable Securities the Suspension Notice shall state that such suspension shall continue only for so long as the Suspension Event or its effect is continuing and the Company is taking all reasonable steps to terminate suspension of the effectiveness of the Registration Statement as promptly as possible. The Holders shall not effect any sales of the Registrable Securities pursuant to such Registration Statement (or such filings) at any time after it has received a Suspension Notice from the Company and prior to receipt of an End of Suspension Notice. If so directed by the Company, each Holder will deliver to the Company (at the expense of the Company) all copies other than permanent file copies then in such Holder's possession of the Prospectus covering the Registrable Securities at the time of receipt of the Suspension Notice. The Holders may recommence effecting sales of the Registrable Securities pursuant to the Registration Statement (or such filings) following further notice to such effect (an "End of Suspension Notice") from the Company, which End of Suspension Notice shall be given by the Company to the Holders and JMP in the manner described above promptly following the conclusion of any Suspension Event and its effect.

(c) If the Company shall give a Suspension Notice pursuant to this Section 5, the Company agrees that it shall extend the period of time during which the Registration Statement shall be maintained effective pursuant to this Agreement by the number of days during the period from the date of the giving of the Suspension Notice to and including the date when Holders shall have received the End of Suspension Notice and copies of the supplemented or amended Prospectus necessary to resume sales.

(d) If (i) the IPO Registration Statement, if required to be filed, is not filed with the Commission on or prior to December 31, 2003, (ii) the IPO Registration Statement is not declared effective by the Commission by

June 30, 2004, (iii) the Shelf Registration Statement, if required to be filed, is not filed with the Commission on or

prior to the later of December 31, 2003, or thirty (30) days after the earlier of the withdrawal or abandonment of the offering pursuant to the IPO registration statement (iv) the Shelf Registration Statement, if required to be filed, is not filed within one hundred eighty (180) days of the consummation of the offering pursuant to the IPO Registration Statement, (v) the Shelf Registration Statement is not declared effective by the Commission by June 30, 2004 or in the case of a Shelf Registration Statement required to be filed pursuant to Section 2(a)(iv), the Shelf Registration Statement is not declared effective by the Commission within eighty (80) days after the filing thereof or (vi) after the IPO Registration Statement or the Shelf Registration Statement has been declared effective such Registration Statement ceases to be effective or usable in connection with resales of Registrable Securities during a period in which it is required to be effective without being succeeded immediately by any additional Registration Statement or post-effective amendment covering the Registrable Securities, which has been filed and declared effective, a "Registration Default" will be deemed to have occurred. In the case of a Registration Default, the Company will pay additional dividends ("Additional Dividends") to each holder of Registrable Securities who has complied with such Holder's obligations under this Agreement. Additional Dividends will paid by the Company out of funds required to be allocated and distributed to the entities through which the Company holds its interest in Arbor Realty Limited Partnership, a Delaware limited partnership (the "OP") out of the OP's income. The amount of Additional Dividends payable during any quarter in which a Registration Default has occurred and is continuing shall be $.0625 per share of Common Stock which constitutes or underlies a Registrable Security (subject to adjustment in the event of a stock split, stock recombination, stock dividend and the like) and shall escalate at the end of such quarter and at the end of each quarter thereafter by an additional $.0625 per share of Common Stock which constitutes or underlies a Registrable Security (subject to adjustment in the event of a stock split, stock recombination, stock dividend and the like); provided that, such Additional Dividends shall not exceed $.25 per share of Common Stock which constitutes or underlies a Registrable Security (subject to adjustment in the event of a stock split, stock recombination, stock dividend and the like) per quarter. Following the cure of all Registration Defaults, Additional Dividends will cease to accrue with respect to such Registration Default. To the extent a Registration Default is cured during a quarter, partial Additional Dividends shall be payable for such quarter and shall be calculated on the basis of a ninety day quarter consisting of three equal thirty day months. All accrued Additional Dividends shall be paid by wire transfer of immediately available funds or by federal funds check by the Company on the first Business Day of each quarter following a Registration Default. In the event that any Additional Dividends are not paid when due, such overdue Additional Dividends, if any, shall bear interest until paid at the maximum interest rate allowed by law, compounded quarterly. The parties hereto agree that the Additional Dividends provided for in this Section 5(d) constitute a reasonable estimate of the damages that may be incurred by Holders by reason of a Registration Default.

6. INDEMNIFICATION AND CONTRIBUTION

(a) The Company agrees to indemnify and hold harmless (i) JMP and each Holder of Registrable Securities, (ii) each Person, if any, who controls (within the meaning of Section 15 of the Securities Act or Section 20(a) of the Exchange Act), any such Person (any of the Persons referred to in this clause (ii) being hereinafter referred to as a "Controlling Person"), and (iii) the respective officers, directors, partners, employees, representatives and agents of any such Person or any Controlling Person (any Person referred to in clause (i), (ii) or (iii) may hereinafter be referred to as an "Purchaser Indemnitee"), to the fullest extent lawful, from and against any and all losses, claims, damages, judgments, actions, out-of-pocket expenses, and other liabilities (the "Liabilities"), including without limitation and as incurred, reimbursement of all reasonable costs of investigating, preparing, pursuing or defending any claim or action, or any Proceeding by any governmental agency or body, commenced or threatened, including the reasonable fees and expenses of counsel to any Purchaser Indemnitee, joint or several, directly or indirectly related to, based upon, arising out of or in connection with any untrue statement or alleged untrue statement of a material fact contained in any Registration Statement or Prospectus (as amended or supplemented if the Company shall have furnished to

such Purchaser Indemnitee any amendments or supplements thereto), or any omission or alleged omission to state therein a material fact required to be stated therein or necessary to make the statements therein, in light of the circumstances under which they were made, not misleading, except insofar as such Liabilities arise out of or are based upon (x) any untrue statement or omission or alleged untrue statement or omission made in reliance upon and in conformity with information relating to any Purchaser Indemnitee furnished to the Company or any underwriter in writing by such Purchaser Indemnitee expressly for use therein, (y) any untrue statement contained in or omission from a Prospectus if a copy of the corrected Prospectus (as then amended or supplemented, if the Company shall have furnished to or on behalf of the Holder participating in the distribution relating to the relevant Registration Statement any amendments or supplements thereto) was not sent or given by or on behalf of such Holder to the Person asserting any such Liabilities who purchased Registrable Securities, if such Prospectus (or Prospectus as amended or supplemented) is required by law to be sent or given at or prior to the written confirmation of the sale of such Shares to such Person and the untrue statement contained in or omission from such Prospectus was corrected (or the Prospectus as amended or supplemented), or (z) use of any Registration Statement, Prospectus or any preliminary Prospectus during a period when a stop order has been issued in respect thereof or any Proceeding for that purpose have been initiated, or use of a Prospectus or any preliminary Prospectus has been suspended pursuant to Sections 4(f)(ii), 4(f)(iii), 4(f)(iv) or 5(a); provided, however, in each case, that the Company provided prior notice of such stop order, initiation of Proceedings or suspension. The Company shall notify the Holders promptly of the institution, threat or assertion of any claim, Proceeding (including any governmental investigation), or litigation of which it shall have become aware in connection with the matters addressed by this Agreement which involves the Company or a Purchaser Indemnitee. The indemnity provided for herein shall remain in full force and effect regardless of any investigation made by or on behalf of any Purchaser Indemnitee.

(b) In connection with any Registration Statement in which a Holder of Registrable Securities is participating, such Holder agrees, severally and not jointly, to indemnify and hold harmless the Company, each Person who signs the Registration Statement, each Person who controls the Company within the meaning of Section 15 of the Securities Act or Section 20(a) of the Exchange Act and the respective partners, directors, officers, members, representatives, employees and agents of such Person or Controlling Person to the same extent as the foregoing indemnity from the Company to each Purchaser Indemnitee, but only with reference to untrue statements or omissions or alleged untrue statements or omissions made in reliance upon and in strict conformity with information relating to such Purchaser Indemnitee furnished to the Company in writing by such Purchaser Indemnitee expressly for use in any Registration Statement or Prospectus, any amendment or supplement thereto, or any preliminary Prospectus. The liability of any Purchaser Indemnitee pursuant to this paragraph shall in no event exceed the net proceeds received by such Purchaser Indemnitee from sales of Registrable Securities giving rise to such obligations.

(c) If any suit, action, Proceeding (including any governmental or regulatory investigation), claim or demand shall be brought or asserted against any Person in respect of which indemnity may be sought pursuant to paragraph (a) or (b) above, such Person (the "Indemnified Party"), shall promptly notify the Person against whom such indemnity may be sought (the "Indemnifying Party"), in writing of the commencement thereof (but the failure to so notify an Indemnifying Party shall not relieve it from any liability which it may have under this Section 6, except to the extent the Indemnifying Party is materially prejudiced by the failure to give notice), and the Indemnifying Party, upon request of the Indemnified Party, shall retain counsel reasonably satisfactory to the Indemnified Party to represent the Indemnified Party and any others the Indemnifying Party may reasonably designate in such Proceeding and shall pay the reasonable fees and expenses actually incurred by such counsel related to such Proceeding. Notwithstanding the foregoing, in any such Proceeding, any Indemnified Party shall have the right to retain its own counsel, but the fees and expenses of such counsel shall be at the expense of such Indemnified Party, unless (i) the Indemnifying Party and the Indemnified Party shall have mutually agreed in writing to the contrary, (ii) the Indemnifying Party failed within a reasonable time after notice of commencement of the action to assume the defense and employ counsel reasonably satisfactory to the Indemnified Party, (iii) the Indemnifying Party and its counsel do not actively and vigorously pursue the defense of such action or (iv) the named parties to any such action (including any impleaded parties), include both such Indemnified Party and the Indemnifying Party, or any Affiliate of the Indemnifying Party, and such Indemnified Party

shall have been reasonably advised by counsel that, either (x) there may be one or more legal defenses available to it which are different from or additional to those available to the Indemnifying Party or such Affiliate of the Indemnifying Party or (y) a conflict may exist between such Indemnified Party and the Indemnifying Party or such Affiliate of the Indemnifying Party (in which case the Indemnifying Party shall not have the right to assume nor direct the defense of such action on behalf of such Indemnified Party, it being understood, however, that the Indemnifying Party shall not, in connection with any one such action or separate but

substantially similar or related actions in the same jurisdiction arising out of the same general allegations or circumstances, be liable for the reasonable fees and expenses of more than one separate firm of attorneys (in addition to any local counsel), for all such Indemnified Parties, which firm shall be designated, in the case of Purchaser Indemnities, in writing by those Indemnified Parties who sold a majority of the Registrable Securities sold by all such Indemnified Parties and any such separate firm for the Company, the directors, the officers and such control Persons of the Company as shall be designated in writing by the Company. The Indemnifying Party shall not be liable for any settlement of any Proceeding effected without its written consent, which consent shall not be unreasonably withheld, but if settled with such consent or if there be a final, non-appealable judgment for the plaintiff, the Indemnifying Party agrees to indemnify any Indemnified Party from and against any loss or liability by reason of such settlement or judgment. No Indemnifying Party shall, without the prior written consent of the Indemnified Party, effect any settlement of any pending or threatened 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 Proceeding.

(d) If the indemnification provided for in paragraphs (a) and (b) of this Section 6 is for any reason held to be unavailable to an Indemnified Party in respect of any Liabilities referred to therein (other than by reason of the exceptions provided therein) or is insufficient to hold harmless a party indemnified thereunder, then each Indemnifying Party under such paragraphs, in lieu of indemnifying such Indemnified Party thereunder, shall contribute to the amount paid or payable by such Indemnified Party as a result of such Liabilities (i) in such proportion as is appropriate to reflect the relative benefits of the Indemnified Party on the one hand and the Indemnifying Party(ies) on the other in connection with the statements or omissions that resulted in such Liabilities, 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 Indemnifying Party(ies) and the Indemnified Party, as well as any other relevant equitable considerations. The relative fault of the Company on the one hand and any Purchaser Indemnitees on the other shall be determined by reference to, among other things, whether the untrue or alleged untrue statement of a material fact or the omission or alleged omission to state a material fact relates to information supplied by the Company or by such Purchaser Indemnitees and the parties' relative intent, knowledge, access to information and opportunity to correct or prevent such statement or omission.

(e) The parties agree that it would not be just and equitable if contribution pursuant to this Section 6 were determined by pro rata allocation (even if such indemnified parties 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 6(d) above. The amount paid or payable by an Indemnified Party as a result of any Liabilities referred to paragraph 6(d) shall be deemed to include, subject to the limitations set forth above, any reasonable legal or other expenses actually incurred by

such Indemnified Party in connection with investigating or defending any such action or claim. Notwithstanding the provisions of this Section 6, in no event shall a Purchaser Indemnitee be required to contribute any amount in excess of the amount by which proceeds received by such Purchaser Indemnitee from sales of Registrable Securities exceeds the amount of any damages that such Purchaser Indemnitee has otherwise been required to pay by reason of such untrue or alleged untrue statement or omission or alleged omission. For purposes of this Section 6, each Person, if any, who controls (within the meaning of Section 15 of the Act or Section 20(a) of the Exchange Act) JMP or a Holder of Registrable

Securities shall have the same rights to contribution as JMP or such Holder, as the case may be, and each Person, if any, who controls (within the meaning of Section 15 of the Act or Section 20(a) of the Exchange Act) the Company, and each officer, director, partner, employee, representative, agent or manager of the Company shall have the same rights to contribution as the Company. Any party entitled to contribution will, promptly after receipt of notice of commencement of any action, suit or Proceeding against such party in respect of which a claim for contribution may be made against another party or parties, notify each party or parties from whom contribution may be sought, but the omission to so notify such party or parties shall not relieve the party or parties from whom contribution may be sought from any obligation it or they may have under this Section 6 or otherwise, except to the extent that any party is materially prejudiced by the failure to give notice. 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.

(f) The indemnity and contribution agreements contained in this Section 6 will be in addition to any liability which the indemnifying parties may otherwise have to the indemnified parties referred to above. The Purchaser Indemnitee's obligations to contribute pursuant to this Section 6 are several in proportion to the respective number of Shares sold by each of the Purchaser Indemnitees hereunder and not joint.

7. MARKET STAND-OFF AGREEMENT

Each Holder hereby agrees that it shall not, to the extent requested by the Company or an underwriter of securities of the Company, sell or otherwise transfer or dispose of any Registrable Securities or other shares of Common Stock of the Company or any securities convertible into or exchangeable or exercisable for shares of Common Stock of the Company then owned by such Holder (other than to donees or partners of the Holder who agree to be similarly bound) within thirty (30) days prior to and one hundred eighty (180) days following either (x) the effective date of an IPO Registration Statement of the Company filed under the Securities Act or (y) the date of an Underwritten Offering pursuant to a Shelf Registration Statement of the Company filed under the Securities Act; provided, however, that with respect to the one hundred eighty (180)-day restriction that follows the effective date of an IPO Registration Statement, such agreement shall not be applicable to Registrable Securities sold pursuant to such Registration Statement.

In order to enforce the foregoing covenant, the Company shall have the right to place restrictive legends on the certificates representing the securities subject to this Section 7 and to impose stop transfer instructions with respect to the Registrable Securities and such other securities of each Holder (and the securities of every other Person subject to the foregoing restriction) until the end of such period.

8. MARKET MAKING

In connection with the listing of the Registrable Securities, JMP shall act as a market maker and shall use its reasonable efforts to engage additional market makers as may be required under the rules and regulations of the Nasdaq Stock Market or the New York Stock Exchange, as applicable. JMP shall have no obligation to act as a market maker or use its reasonable efforts to engage additional market makers after the Company completes a subsequent underwritten public offering of its common shares.

9. TERMINATION OF THE COMPANY'S OBLIGATION

Subject to Section 11(j) of this Agreement, the Company shall have no obligation pursuant to this Agreement with respect to any Registrable Securities proposed to be sold by a Holder in a registration pursuant to this Agreement if, in the opinion of counsel to the Company, all such Registrable Securities proposed to be sold by a Holder may be sold in a three-month period without registration under the Securities Act pursuant to Rule 144 under the Securities Act.

10. LIMITATIONS ON SUBSEQUENT REGISTRATION RIGHTS

From and after the date of this Agreement, the Company shall not, without the prior written consent of the Holders of a majority of the shares of Common Stock and Common Stock equivalents representing or underlying the then

outstanding Registrable Securities, enter into any agreement with any holder or prospective holder of any securities of the Company that would allow such holder or prospective holder (a) to include such securities in any Registration Statement filed pursuant to the terms hereof, unless under the terms of such agreement, such holder or prospective holder may include such securities in any such registration only to the extent that the inclusion of such holder's or prospective holder's securities will not reduce the amount of Registrable Securities of the Holders that is included, or (b) to have his securities registered on a registration statement that could be declared effective prior to, or within one hundred twenty (120) days of, the effective date of any Registration Statement filed pursuant to this Agreement.

11. MISCELLANEOUS

(a) Remedies. In the event of a breach by the Company of any of its obligations under this Agreement, each Holder of Registrable Securities, in addition to being entitled to exercise all rights provided herein or, in the case of JMP, in the Purchase/Placement Agreement, or granted by law, including recovery of damages, will be entitled to specific performance of its rights under this Agreement. Subject to

Section 6, the Company agrees that monetary damages would not be adequate compensation for any loss incurred by reason of a breach by it of any of the provisions of this Agreement and hereby further agrees that, in the event of any action for specific performance in respect of such breach, it shall waive the defense that a remedy at law would be adequate.

(b) 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 or departures from the provisions hereof may not be given, without the written consent of the Company and Holders beneficially owning not less than fifty percent (50%) of the shares of Common Stock and Common Stock equivalents representing or underlying the then outstanding Registrable Securities; provided, however, that for purposes of this Agreement, Registrable Securities that are owned, directly or indirectly, by an Affiliate of the Company shall not be counted in determining whether such consent or approval was given by the Holders of such required percentage. Notwithstanding the foregoing, a waiver or consent to or departure from the provisions hereof with respect to a matter that relates exclusively to the rights of a Holder whose securities are being sold pursuant to a Registration Statement and that does not directly or indirectly affect, impair, limit or compromise the rights of other Holders may be given by such Holder; provided, however, that the provisions of this sentence may not be amended, modified or supplemented except in accordance with the provisions of the immediately preceding sentence.

(c) Notices. All notices and other communications, provided for or permitted hereunder shall be made in writing by delivered by facsimile (with receipt confirmed), overnight courier or registered or certified mail, return receipt requested, or by telegram

(i) if to a Holder of Registrable Securities, at the most current address given by the transfer agent and registrar of the Registrable Securities to the Company; and

(ii) if to the Company at the offices of the Company at 333 Earle Ovington Boulevard, Suite 900, Uniondale, New York 11553, Attention: Frederick C. Herbst; (facsimile: (516) 832-8043) or to such other address as the Company may have furnished to JMP in writing in accordance with this Agreement.

(d) Successors and Assigns. This Agreement shall inure to the benefit of and be binding upon the successors and assigns of each of the parties hereto, including, without limitation and without the need for an express assignment or assumption, subsequent Holders of Registrable Securities. The Company agrees that the Holders shall be third party beneficiaries to the agreements made hereunder by JMP and the Company, and each Holder shall have the right to enforce such agreements directly to the extent it deems such enforcement necessary or advisable to protect its rights hereunder; provided, however, that such Holder fulfills all of its obligations hereunder.

(e) Counterparts. This Agreement may be executed in any number of counterparts and by the parties hereto in separate counterparts, each of which when so executed shall be deemed to be an original and all of which taken together shall constitute one and the same agreement.

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

(g) Governing Law. THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK, AS APPLIED TO CONTRACTS MADE AND PERFORMED WITHIN THE STATE OF NEW YORK, WITHOUT REGARD TO PRINCIPLES OF CONFLICTS OF LAW. EACH OF THE PARTIES HERETO HEREBY IRREVOCABLY SUBMITS TO THE JURISDICTION OF ANY STATE COURT IN THE STATE OF NEW YORK OR ANY FEDERAL COURT SITTING IN STATE OF NEW YORK IN RESPECT OF ANY SUIT, ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT, AND IRREVOCABLY ACCEPTS FOR ITSELF AND IN RESPECT OF ITS PROPERTY, GENERALLY AND UNCONDITIONALLY, THE JURISDICTION OF THE AFORESAID COURTS. EACH OF THE PARTIES HERETO IRREVOCABLY WAIVES, TO THE FULLEST EXTENT IT MAY EFFECTIVELY DO SO UNDER APPLICABLE LAW, ANY OBJECTION THAT IT MAY NOW OR HEREAFTER HAVE TO THE LAYING OF THE VENUE OF ANY SUCH SUIT, ACTION OR PROCEEDING BROUGHT IN ANY SUCH COURT AND ANY CLAIM THAT ANY SUCH SUIT, ACTION OR PROCEEDING BROUGHT IN ANY SUCH COURT HAS BEEN BROUGHT IN AN INCONVENIENT FORUM.

(h) Severability. If any term, provision, covenant or restriction of this Agreement is held by a court of competent jurisdiction to be invalid, illegal, void or unenforceable, the remainder of the terms, provisions, covenants and restrictions set forth herein shall remain in full force and effect and shall in no way be affected, impaired or invalidated, and the parties hereto shall use their best efforts to find and employ an alternative means to achieve the same or substantially the same result as that contemplated by such term, provision, covenant or restriction. It is hereby stipulated and declared to be the intention of the parties hereto that they would have executed the remaining terms, provisions, covenants and restrictions without including any of such that may be hereafter declared invalid, illegal, void or unenforceable.

(i) Entire Agreement. This Agreement, together with the Purchase/Placement Agreement, is intended by the parties hereto as a final expression of their agreement, and is intended to be a complete and exclusive statement of the agreement and understanding of the parties hereto in respect of the subject matter contained herein and therein.

(j) Survival. This Agreement is intended to survive the consummation of the transactions contemplated by the Purchase/Placement Agreement. The indemnification

and contribution obligations under Section 6 of this Agreement shall survive the termination of the Company's obligations under Sections 2 or 9 of this Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first above written.

ARBOR REALTY TRUST, INC.

By: /s/ Frederick C. Herbst

Frederick C. Herbst
Chief Financial Officer

JMP SECURITIES LLC

By: /s/ Carter D. Mack

Carter D. Mack
Managing Director

EXHIBIT 10.1

MANAGEMENT AND ADVISORY AGREEMENT

THIS MANAGEMENT AND ADVISORY AGREEMENT is made as of July 1, 2003 (the "Agreement") by and among ARBOR REALTY TRUST, INC., a Maryland corporation ("Parent REIT"), ARBOR REALTY LIMITED PARTNERSHIP, a Delaware limited partnership (the "Operating Partnership", and together with Parent REIT, collectively, the "Company"), and ARBOR COMMERCIAL MORTGAGE, LLC, a New York limited liability company (together with its permitted assigns, "Manager").

W I T N E S S E T H :

WHEREAS, Parent REIT expects to qualify for the tax benefits available to a REIT (as defined below);

WHEREAS, Arbor Realty GPOP, Inc., a Delaware corporation and a wholly owned subsidiary of the Parent REIT ("GPOP") is the sole general partner of the Operating Partnership and Arbor Realty LPOP, Inc., a Delaware corporation and a wholly owned subsidiary of the Parent REIT ("LPOP") is a limited partner of the Operating Partnership, and Parent REIT has contributed (or will contribute on the Closing Date (as defined below)) to GPOP and LPOP all of its assets (including, without limitation, all of the proceeds of the initial 144A securities offering of the Common Shares, as further described in that certain Offering Memorandum, dated June 26, 2003 (the "Offering Memorandum"), and GPOP and LPOP will in turn contribute such assets to the Operating Partnership, and the Parent REIT will conduct substantially all of its operations through the Operating Partnership;

WHEREAS, Parent REIT and the Operating Partnership desire to avail themselves of the experience, sources of information, advice, assistance and certain facilities of or available to Manager and to have Manager undertake the duties and responsibilities hereinafter set forth on behalf of Parent REIT and the Operating Partnership as provided in this Agreement; and

WHEREAS, Manager is willing to render such services on the terms and conditions hereinafter set forth.

NOW THEREFORE, in consideration of the mutual agreements herein set forth, the parties hereto agree as follows:

1. Definitions. The following terms have the meanings assigned them:

(a) "Agreement" has the meaning assigned in the first paragraph.

(b) "Board of Directors" means the Board of Directors of Parent REIT first named herein, the provisions of Section 1(mm) to the contrary notwithstanding.

(c) "Change of Control" means a change in the direct or indirect (i) beneficial ownership of more than fifty percent (50%) of the combined voting power (of any Person together with any affiliates of such Person or Persons otherwise associated or acting in concert with such Person) of Manager's then outstanding equity interests, or (ii) power to direct or control the management policies of Manager, whether through the ownership of beneficial equity interests, common directors or officers, by contract or otherwise. Change of Control shall not include public offerings of the capital stock of Manager or any assignment of this Agreement by Manager as permitted hereby and in accordance with the terms hereof.

(d) "Closing Date" means the date of this Agreement, being the date of closing of Parent REIT's private placement of Common Shares as identified in the Offering Memorandum.

(e) "Code" means the Internal Revenue Code of 1986, as amended.

(f) "Common Share" means a share of capital stock of

Parent REIT now or hereafter authorized and issued as common voting stock of Parent REIT.

(g) "Company" has the meaning assigned in the first paragraph.

(h) "Company Account" has the meaning assigned in Section 5.

(i) "Company Target Investments" means multifamily and commercial mortgage loans and customized financing transactions, including bridge loans, mezzanine loans, preferred equity investments, note acquisitions and participation interests in owners of real properties.

(j) "Company Termination Notice" has the meaning assigned in Section 13(b).

(k) "Deferred Interest" has the meaning assigned in Section 8(c).

(l) "Effective Termination Date" has the meaning assigned in Section 13(b).

(m) "Excess Funds" has the meaning assigned in Section 2(f).

(n) "Exchange Act" means the Securities Exchange Act of 1934, as amended.

(o) "Expenses" has the meaning assigned in Section 9.

(p) "Funds from Operations" has the meaning assigned by the National Association of Real Estate Investment Trusts and means net income (computed in accordance with GAAP) excluding gains (or losses) from debt restructuring and sales of property, plus depreciation and amortization on real estate assets, and after adjustments for unconsolidated partnerships and joint ventures.

(q) "GAAP" means generally accepted accounting principles in effect in the U.S. on the date such principles are applied, consistently applied.

(r) "Governing Instruments" means, with respect to any Person, the articles of incorporation and bylaws in the case of a corporation, the certificate of limited partnership (if applicable) and partnership agreement in the case of a general or limited partnership or the articles of formation and operating agreement in the case of a limited liability company.

(s) "Guidelines" has the meaning assigned in Section 2(b)(i).

(t) "Incentive Fee" has the meaning assigned in Section 8(d)(i).

(u) "Incentive Fee Payment" has the meaning assigned in Section 8(d)(ii).

(v) "Independent Directors" means the members of the Board of Directors who are not officers or employees of Manager and who are otherwise "independent" in accordance with Parent REIT's Governing Instruments.

(w) "Initial Assets" means the investments contributed to the Company on the Closing Date described on pages 44 through 52 of the Offering Memorandum.

(x) "Invested Equity" has the meaning assigned in Section 8(a)(i).

(y) "Investment Company Act" means the Investment Company Act of 1940, as amended.

(z) "Investments" means the investments of the Company.

(aa) "Management Fee" has the meaning assigned in Section 8(a)(i).

(bb) "Management Fee Payment" has the meaning assigned in Section 8(a)(ii).

(cc) "Manager" has the meaning assigned in the first paragraph.

(dd) "Manager Indemnified Party" has the meaning assigned in Section 11(b).

(ee) "Manager Parties" has the meaning assigned in Section 3(b).

(ff) "Manager Target Investments" has the meaning assigned in Section 3(c).

(gg) "Manager Termination Notice" has the meaning assigned in Section 13(d).

(hh) "Notice of Proposal to Negotiate" has the meaning assigned in Section 13(c).

(ii) "Non-Competition Agreement" means that certain Non-Competition Agreement, dated as of the date hereof, among Parent REIT, the Operating Partnership and Principal.

(jj) "Offering Memorandum" has the meaning assigned in the recitals.

(kk) "OP Unit" means a unit of partnership interest in the Operating Partnership now or hereafter authorized and issued as a unit of partnership interest in the Operating Partnership.

(ll) "Operating Partnership" has the meaning assigned in the first paragraph.

(mm) "Parent REIT" has the meaning assigned in the first paragraph. All references herein to Parent REIT shall, except as otherwise expressly provided herein, be deemed to include the Parent REIT first named herein and the Subsidiaries of the Parent REIT; provided, that unless any such Subsidiary seeks to qualify for the tax benefits available to a REIT, provisions of this Agreement contemplating Parent REIT's status as a REIT shall apply only to Parent REIT and not to such Subsidiary, other than to the extent the same affect the Parent REIT first named herein.

(nn) "Person" means any individual, corporation, partnership, joint venture, limited liability company, estate, trust, unincorporated association, any federal, state, county or municipal government or any bureau, department or agency thereof and any fiduciary acting in such capacity on behalf of any of the foregoing.

(oo) "Principal" means Ivan Kaufman, an individual.

(pp) "REIT" means a corporation or trust which qualifies as a real estate investment trust in accordance with Sections 856 through 860 of the Code.

(qq) "Services Agreement" means that certain Services Agreement, dated as of the date hereof, among the parties hereto.

(rr) "Subsidiary" means any subsidiary of Parent REIT, any partnership, the general partner of which is Parent REIT or any subsidiary of Parent REIT and any limited liability company, the managing member of which is Parent REIT or any subsidiary of Parent REIT.

(ss) "Ten Year U.S. Treasury Rate" means the arithmetic average of the weekly average yield to maturity for actively traded current coupon U.S. Treasury fixed interest rate securities (adjusted to constant maturities of ten (10) years) published by the Federal Reserve Board during a

fiscal year, or, if such rate is not published by the Federal Reserve Board, any Federal Reserve Bank or agency or department of the federal government selected by the Company. If the Company determines in good faith that the Ten Year U.S. Treasury Rate cannot be calculated as provided above, then the rate will be the arithmetic average of the per annum average yields to maturities, based upon closing asked prices on each business day during a quarter, for each actively traded marketable U.S. Treasury fixed interest rate security with a final maturity date not less than eight (8) and not more than twelve (12) years from the date of the closing asked prices as chosen and quoted for each business day in each such quarter in New York City by at least three (3) recognized dealers in U.S. government securities selected by the Company.

(tt) "U.S." means United States of America.

2. Appointment and Duties of Manager.

(a) Appointment. The Company hereby appoints Manager to manage the assets of the Company subject to the further terms and conditions set forth in this Agreement, and Manager hereby agrees to use its commercially reasonable efforts to perform each of the duties set forth herein. The appointment of Manager shall be exclusive to Manager except to the extent that Manager otherwise agrees, in its sole and absolute discretion, and except to the extent that Manager elects pursuant to the terms of this Agreement to cause the duties of Manager hereunder to be provided by third parties.

(b) Duties. Manager, in its capacity as manager of the assets and the day-to-day operations of the Company, at all times will be subject to the supervision of the Board of Directors and will have only such functions and authority as the Company may delegate to it, including, without limitation, the functions and authority identified herein and delegated to Manager hereby. Manager will be responsible for the day-to-day operations of the Company and will perform (or cause to be performed) such services and activities relating to the assets and operations of the Company as may be appropriate, including, without limitation:

(i) serving as the Company's consultant with respect to the periodic review of the investment criteria and parameters for Investments, borrowings and operations, any modifications to which shall be approved by a majority of the Independent Directors (such policy guidelines as are in effect on the date hereof, as the same may be modified with such approval, the "Guidelines"), and other policies for approval by the Board of Directors;

(ii) investigation, analysis and selection of investment opportunities;

(iii) with respect to prospective investments by the Company and dispositions of Investments, conducting negotiations with real estate brokers, sellers and purchasers, and their respective agents and representatives, investment bankers, mortgage bankers and owners of privately and publicly held real estate companies;

(iv) coordinating and managing operations of any joint venture or co-investment interests held by the Company and conducting all matters with the joint venture or co-investment partners;

(v) providing executive and administrative personnel, office space and office services required in rendering services to the Company;

(vi) administering the day-to-day operations of the Company and performing and supervising the performance of such other administrative functions necessary in the management of the Company as may be agreed upon by Manager and the Board of Directors, including, without limitation, collection of interest, fee and other income, payment of the Company's debts and obligations, payment of dividends or distributions to the holders of the Common Shares and maintenance of appropriate back-office infrastructure to perform such administrative functions;

(vii) communicating on behalf of the Company with the holders of any equity or debt securities of the Company as required to satisfy the reporting and other requirements of any governmental entities or agencies or trading markets and to maintain effective relations with such holders;

(viii) counseling Parent REIT in connection with policy decisions to be made by the Board of Directors;

(ix) evaluating and recommending to the Board of Directors hedging strategies and, as the Board of Directors shall request or Manager shall deem appropriate, engaging in hedging activities on behalf of the Company, in a manner consistent with such strategies, as so modified from time to time, Parent REIT's status as a REIT and the Guidelines;

(x) counseling Parent REIT regarding the maintenance of its status as a REIT and monitoring compliance with the various REIT qualification tests and other rules set out in the Code and the Treasury Regulations promulgated thereunder;

(xi) counseling the Company regarding the maintenance of its exemption from the Investment Company Act and monitoring compliance with the requirements for maintaining such exemption;

(xii) assisting the Company in developing criteria for debt and equity financing that is specifically tailored to the Company's investment objectives, making available to the Company its knowledge and experience with respect to Company Target Investments and other real estate and real estate-related transactions and serving as the originating lender of such investments comprising Company Target Investments;

(xiii) representing and making recommendations to the Company in connection with its investment in a diversified portfolio of Company Target Investments and other real estate transactions with select borrowers and principals;

(xiv) investing and re-investing any moneys and securities of Parent REIT or the Operating Partnership (including investing in short-term investments pending investment in Investments, payment of fees, costs and expenses or payments of dividends or distributions to stockholders and partners of Parent REIT and the Operating Partnership) and advising Parent REIT and the Operating Partnership with respect to its capital structure and capital raising;

(xv) causing Parent REIT and the Operating Partnership to retain qualified accountants and legal counsel, as applicable, to assist in developing appropriate accounting and compliance procedures and testing systems with respect to financial reporting obligations, as applicable, and the Parent REIT's compliance with the provisions of the Code applicable to REITs and the Treasury Regulations promulgated thereunder and to conduct quarterly compliance reviews with respect thereto;

(xvi) causing Parent REIT and the Operating Partnership to qualify to do business in all applicable jurisdictions and to obtain and maintain all appropriate licenses;

(xvii) assisting Parent REIT and the Operating Partnership in complying with all regulatory requirements applicable to Parent REIT and the Operating Partnership in respect of its business activities, including preparing or causing to be prepared all financial statements required under applicable regulations and contractual undertakings and all reports and documents required under the Exchange Act;

(xviii) taking all necessary actions to enable the

Parent REIT and the Operating Partnership to make required tax filings and reports, including, with respect to the Parent REIT, soliciting stockholders for required information to the extent provided by the provisions of the Code applicable to REITs and the Treasury Regulations promulgated thereunder;

(xix) handling and resolving all claims, disputes or controversies (including all litigation, arbitration, settlement or other proceedings or negotiations) in which the Company may be involved or to which the Company may be subject arising out of the Company's day-to-day operations, subject to such limitations or parameters as may be imposed from time to time by the Board of Directors;

(xx) using commercially reasonable efforts to cause expenses incurred by or on behalf of the Company to be reasonable, customary and within any budgeted parameters or expense guidelines set by the Board of Directors from time to time;

(xxi) using commercially reasonable efforts to cause Parent REIT and the Operating Partnership to comply with all applicable laws; and

(xxii) performing such other services as may be required from time to time for management and other activities relating to the assets of the Company as the Board of Directors shall reasonably request or Manager shall deem appropriate under particular circumstances.

(c) Subcontracts. Manager may enter into agreements with other parties, including its affiliates, for the purpose of engaging one or more property and/or asset managers for and on behalf, and at the sole cost and expense, of the Company to provide property management, asset management, leasing, development and/or similar services to the Company with respect to the Investments, pursuant to property management agreement(s) and/or asset management agreement(s) with terms which are then customary for agreements regarding the management of assets similar in type, quality and value to the assets of the Company; provided, that any such agreements entered into with affiliates of Manager shall be (i) on terms no more favorable to such affiliate then would be obtained from a third party on an arm's-length basis, and (ii) to the extent the same do not fall within the provisions of the Guidelines, approved by a majority of the Independent Directors.

(d) Service Providers. Manager may retain for and on behalf of the Company such services of accountants, legal counsel, appraisers, insurers, brokers, transfer agents,

registrars, developers, investment banks, financial advisors, banks, other lenders and other Persons, including Manager's affiliates, as Manager deems necessary or advisable in connection with the management and operations of the Company; provided, that any agreements entered into with affiliates of Manager to perform any such services shall be (i) on terms no more favorable to such affiliate then would be obtained from a third party on an arm's-length basis, and (ii) to the extent the same do not fall within the provisions of the Guidelines, approved by a majority of the Independent Directors. The Company shall pay all expenses, and reimburse Manager for Manager's expenses incurred on its behalf, in connection with any such services to the extent such expenses are reimbursable by the Company to Manager pursuant to Section 9.

(e) Reporting Requirements.

(i) As frequently as Manager may deem necessary or advisable, or at the direction of the Board of Directors, Manager shall prepare, or cause to be prepared, with respect to any Investment (i) at the Company's sole cost and expense, an appraisal prepared by an independent real estate appraiser, (ii) reports and information on the Company's operations and asset performance, and (iii) such other information reasonably requested by the Company. The Company shall pay all expenses, and reimburse Manager for Manager's expenses incurred on its behalf, in connection with the foregoing clauses (ii) and (iii) to the extent such expenses are reimbursable by the Company to Manager pursuant to Section 9.

(ii) Manager shall prepare, or cause to be prepared, at the sole cost and expense of the Company, all reports, financial or otherwise, with respect to Parent REIT and the Operating Partnership reasonably required by the Board of Directors in order for Parent REIT and the Operating Partnership to comply with their Governing Instruments or any other materials required to be filed with any governmental entity or agency, and shall prepare, or cause to be prepared, all materials and data necessary to complete such reports and other materials including, without limitation, an annual audit of the Company's books of account by a nationally recognized independent accounting firm of good reputation.

(iii) Manager shall prepare regular reports for the Board of Directors to enable the Board of Directors to review the Company's acquisitions, portfolio composition and characteristics, credit quality, performance and compliance with the Guidelines and policies approved by the Board of Directors.

(f) Excess Funds. Notwithstanding anything contained in this Agreement to the contrary, except to the extent that the payment of additional moneys is proven by the Company to have been required as a direct result of Manager's acts or omissions which result in the right of the Company to terminate this Agreement pursuant to Section 15 and except as expressly provided in Section 11(c), Manager shall not be required to expend money ("Excess Funds") in excess of that contained in any applicable Company Account or otherwise made available by the Company to be expended by Manager hereunder.

(g) Reliance by Manager. In performing its duties under this Section 2, Manager shall be entitled to rely reasonably on qualified experts and professionals (including,

without limitation, accountants, legal counsel and other professional service providers) hired by Manager.

3. Dedication; Right of First Refusal; Exclusivity; Survival.

(a) Devotion of Time. Manager will provide a dedicated management team, including the Chief Executive Officer, the Chief Financial Officer and the Chief Operating Officer of Manager, to provide the management services to be provided by Manager to the Company hereunder, the members of which team shall devote such of their time to the management of the Company as the Independent Directors deem necessary and appropriate, commensurate with the level of activity of the Company from time to time. The Company shall have the benefit of Manager's best judgment and effort in rendering services and, in furtherance of the foregoing, Manager shall not undertake activities which, in its reasonable judgment, will substantially adversely affect the performance of its obligations under this Agreement.

(b) Additional Activities; Right of First Refusal. Except to the extent set forth in Section 3(a) and subject to the provisions of this Section 3(b), Manager and any of its affiliates, and any of the officers and employees of any of the foregoing (the "Manager Parties"), may engage in other businesses and render services of any kind to any other Person, including investment in, or advisory service to others investing in, Company Target Investments and other real estate and real estate-related transactions; provided, however, prior to any Manager Party engaging in transactions involving or rendering services relating to Company Target Investments other than on behalf of or to the Company, if (i) such transaction is consistent with the Company's investment objectives and within the Guidelines, and (ii) the parameters of the transaction are of a character which would not adversely affect the status of Parent REIT as a REIT, Manager shall offer such investment opportunity to the Company by delivering to the Company's credit committee a written description thereof containing the economic and other material terms of the transaction. The credit committee shall have five (5) days to accept or reject the offer by a majority vote of the members of the credit committee. If the credit committee rejects the offer, Manager shall present the investment opportunity to the Independent Directors who shall have five (5) days to accept or reject the offer by majority vote. If the Independent Directors reject the offer and allow Manager to pursue the investment opportunity, any Manager Party may pursue the same provided the economic and other material terms thereof are not materially more beneficial to the applicable Manager Party than the economic and other material terms to the Company would have been under the transaction

described in the original offer. If the economic and other material terms of the transaction to be engaged in by the applicable Manager Party are modified so that the benefits thereof to the applicable Manager Party are materially more beneficial to the applicable Manager Party than such terms to the Company would have been under the transaction described in the original offer, then Manager must offer the revised transaction opportunity to the Company and the provisions of this Section 3(b) shall apply to the revised offer as though it were an original offer. If the Company accepts, either by majority vote of the credit committee or the Independent Directors, an investment opportunity offered by Manager hereunder, the Company must reimburse Manager for its expenses relating thereto to the extent the same would be reimbursable by the Company to Manager pursuant to Section 9. For the avoidance of doubt, the Manager Parties may not pursue

an investment opportunity offered to the Company hereunder without the Independent Directors' permission to do so as otherwise contemplated in this Section 3(b).

(c) Manager Exclusivity Rights. Manager and any other Manager Party may, and the Company agrees not to, pursue any investment opportunities consisting of multifamily and commercial mortgage loans that meet the underwriting and approval guidelines of (i) Fannie Mae, (ii) the Federal Housing Administration, and (iii) conduit commercial lending programs secured by first liens on real property (collectively, "Manager Target Investments").

(d) Officers, Employees, Etc. Manager, members, partners, officers, employees and agents of Manager or affiliates of Manager may serve as directors, officers, employees, agents, nominees or signatories for Parent REIT, the Operating Partnership or any other Subsidiary, to the extent permitted by their Governing Instruments, as may be amended from time to time, or by any resolutions duly adopted by the Board of Directors pursuant to Parent REIT's Governing Instruments. When executing documents or otherwise acting in such capacities for Parent REIT, the Operating Partnership or such other Subsidiary, such Persons shall use their respective titles with respect to Parent REIT, the Operating Partnership or such Subsidiary.

(e) Survival; Origination Period. For a period of one (1) year following the expiration or earlier termination of this Agreement, Manager shall continue (and have the exclusive right, if (i) the Company did not terminate this Agreement for cause, or (ii) Manager terminated this Agreement for cause, as cause for each party is determined in accordance with Section 15) to serve as the originating lender of investments comprising Company Target Investments as contemplated under Section 2(b)(xii), and the provisions and terms of Sections 3(b), 3(c) and 8(b) shall continue to apply. For the avoidance of doubt, Manager will not earn the Management Fee or the Incentive Fee during this one (1) year period.

4. Agency. Manager shall act as agent of Parent REIT and the Operating Partnership in making, acquiring, financing and disposing of Investments, disbursing and collecting the Company's funds, paying the debts and fulfilling the obligations of the Company, supervising the performance of professionals engaged by or on behalf of Parent REIT or the Operating Partnership and handling, prosecuting and settling any claims of or against the Company, the Board of Directors, holders of Parent REIT's or the Operating Partnership's securities or the Company's representatives or properties.

5. Bank Accounts. At the direction of the Board of Directors, Manager may establish and maintain one or more bank accounts in the name of Parent REIT, the Operating Partnership or any other Subsidiary (any such account, a "Company Account"), collect and deposit funds into any such Company Account or Company Accounts and disburse funds from any such Company Account or Company Accounts, under such terms and conditions as the Board of Directors may approve. Manager shall from time-to-time render appropriate accountings of such collections and payments to the Board of Directors and, upon request, to the auditors of Parent REIT, the Operating Partnership or any other Subsidiary.

6. Records; Confidentiality.

(a) Records. Manager shall maintain appropriate books of

account and records relating to services performed under this Agreement, and such books of account and records shall be accessible for inspection by representatives of Parent REIT, the Operating Partnership or any other Subsidiary at any time during normal business hours upon one (1) business day's advance written notice.

(b) Confidentiality. Manager shall keep confidential any nonpublic information obtained in connection with the services rendered under this Agreement and shall not disclose any such information (or use the same except in furtherance of its duties under this Agreement), except: (i) with the prior written consent of the Board of Directors; (ii) to legal counsel, accountants and other professional advisors, so long as Manager informs such Persons of the confidential nature of such information and directs them to treat such information confidentially; (iii) to appraisers in the ordinary course of business; (iv) to governmental officials having jurisdiction over Manager; (v) as required by law or legal process to which Manager or any Person to whom disclosure is permitted hereunder is a party or in connection with Manager's assertion in any judicial or nonjudicial proceeding of any claim, counterclaim or defense against the Company; or (vi) information which has previously become available through the actions of a Person other than Manager not resulting from Manager's violation of this Section 6(b). The provisions of this Section 6(b) shall survive the expiration or earlier termination of this Agreement.

7. Obligations of Manager; Restrictions.

(a) Asset Representations and Warranties. Manager shall require each seller or transferor of investment assets to the Company to make such representations and warranties regarding such assets as may, in the judgment of Manager, be necessary and appropriate. In addition, Manager shall take such other action as it deems necessary or appropriate with regard to the protection of the Investments.

(b) Restrictions. Manager shall refrain from any action that, in its sole judgment made in good faith, (i) is not in compliance with the Guidelines, (ii) would adversely affect the status of Parent REIT as a REIT, or (iii) would violate any law, rule or regulation of any governmental body or agency having jurisdiction over Parent REIT, the Operating Partnership or any other Subsidiary or that would otherwise not be permitted by such Person's Governing Instruments. If Manager is ordered to take any such action by the Board of Directors, Manager shall promptly notify the Board of Directors of Manager's judgment that such action would adversely affect such status or violate any such law, rule or regulation or Governing Instruments. Notwithstanding the foregoing, Manager, its directors, officers, stockholders and employees shall not be liable to Parent REIT, the Operating Partnership or any other Subsidiary, the Board of Directors or Parent REIT's or the Operating Partnership's stockholders or partners for any act or omission by Manager, its directors, officers, stockholders or employees except as provided in Section 11.

(c) Interested Party Transaction. Manager shall not (i) consummate any transaction which would involve the acquisition by the Company of property in which Manager

or any of its affiliates has an ownership interest or the sale by the Company of property to Manager or any of its affiliates, or (ii) under circumstances where Manager is subject to an actual or potential conflict of interest because it manages both the Company and another Person (not an affiliate of the Company) with which the Company has a contractual relationship, take any action constituting the granting to such other Person of a waiver, forebearance or other relief, or the enforcement against such other Person of remedies, under or with respect to the applicable contract, unless such transaction or action, as the case may be and in each case, is approved by a majority of the Independent Directors.

(d) Joint Ventures. The Company shall not invest in joint ventures with Manager or any of its affiliates, unless such Investment is (i) made in accordance with the Guidelines, and (ii) approved in advance by a majority of the Independent Directors.

(e) Board of Director Review. The Board of Directors periodically reviews the Guidelines and the Company's portfolio of Investments. If a majority of the Independent Directors determine in their periodic review of transactions that a particular transaction does not comply with the Guidelines,

then a majority of the Independent Directors will consider what corrective action, if any, can be taken.

(f) Insurance. Manager shall at all times during the term of this Agreement (including the initial term and any renewal term) maintain a tangible net worth equal to or greater than $1,000,000. In addition, Manager shall maintain "errors and omissions" insurance coverage and such other insurance coverage which is customarily carried by property, asset and investment managers performing functions similar to those of Manager under this Agreement with respect to assets similar to the assets of the Company, in an amount which is comparable to that customarily maintained by other managers or servicers of similar assets.

8. Compensation.

(a) Management Fee.

(i) During the term of this Agreement, the Company shall pay Manager an annual management fee (the "Management Fee") based on Equity, as follows:

(A) 0.75% per annum of Equity up to $400,000,000 of Equity;

(B) in the event that Equity is greater than $400,000,000, the amount set forth in clause (A) above plus 0.625% per annum of Equity in excess of $400,000,000 and up to $800,000,000; and

(C) in the event that Equity is greater than $800,000,000, the amounts set forth in clauses (A) and (B) above plus 0.5% per annum of Equity in excess of $800,000,000.

"Equity" means, computed in accordance with GAAP as of the end of each calendar month, (1) the total equity of Parent REIT and all limited partners of the Operating

Partnership, plus or minus, as applicable (2) any unrealized gains, losses or other items that do not affect realized net income of the Operating Partnership.

(ii) The Management Fee shall be payable in arrears in cash, in monthly installments, and Manager shall calculate each installment thereof (taking into account any reductions of the Management Fee pursuant to Section 8(c) and Section 1(c) of the Services Agreement), and deliver such calculation to the Board of Directors, within fifteen (15) days following the last day of each calendar month. The Company shall pay Manager each installment of the Management Fee (each, a "Management Fee Payment") within twenty (20) days following the last day of the calendar month with respect to which such Management Fee Payment is payable.

(iii) The provisions of this Section 8(a) shall survive the expiration or earlier termination of this Agreement; provided, however, the Management Fee is subject to adjustment pursuant to and in accordance with the provisions of Section 13(c).

(b) Origination Fees. With respect to Manager's origination of Company Target Investments consisting of bridge and mezzanine loans pursuant to Section 2(b)(xii), the Company shall pay Manager an amount equal to the origination fee paid by the borrower thereunder, up to a maximum amount of one percent (1.0%) of the original principal amount of such loan. Any remaining portion of the origination fee shall be retained by the Company. The provisions of this Section 8(b) shall survive the expiration or earlier termination of this Agreement and the one-year origination period described in Section 3(e).

(c) Waiver of Deferred Interest. Manager agrees to cooperate with the Company with respect to the characterization of exit fees payable by the applicable borrower under any of the Initial Assets or the other Investments as interest or deferred interest pursuant to the terms of the

applicable loan documents ("Deferred Interest") in such a manner that the characterization thereof as interest or deferred interest is reasonably likely to be accepted for U.S. federal income tax purposes. With respect to Investments other than the Initial Assets, Manager shall use commercially reasonable efforts to structure the applicable loan documents in a manner intended to achieve such characterization of exit fees. With respect to the Initial Assets and any other Investments whose terms provide for the payment of Deferred Interest, the Company agrees to waive any or all Deferred Interest payable in accordance with the terms of the applicable loan documents or if such borrowers refinance their respective loans with permanent financing consisting of Manager Target Investments. To the extent that any such Deferred Interest is so waived, the Management Fee Payment due to Manager for the month in which such waiver is made shall be reduced by an amount equal to fifty percent (50%) of the amount of the Deferred Interest waived. In the event the aggregate of any such debits then available and unapplied against a Management Fee Payment exceeds the amount of the Management Fee Payment payable for any given calendar month, the excess unapplied debit shall be carried over and applied as a credit against the Management Fee Payment otherwise payable in the next succeeding calendar month or months until fully applied. In the event, upon the expiration or earlier termination of this Agreement, any excess debits remain to be applied against the Management Fee Payments, Manager shall pay to the Company the amount of such excess unapplied debits.

(d) Incentive Fee.

(i) In addition to the Management Fee, the Company shall pay Manager an annual incentive fee (the "Incentive Fee") on a cumulative, but not compounding, basis, equal to the product of (A) twenty-five percent (25%) of the dollar amount by which (1)(a) the Operating Partnership's Funds from Operations (before giving effect to payment of the Incentive Fee) per OP Unit (based on the weighted average number of OP Units outstanding, including OP Units issued to Parent REIT corresponding to outstanding Common Shares), plus (b) gains (or losses) from debt restructuring and sales of property per OP Unit (based on the weighted average number of OP Units outstanding, including OP Units issued to Parent REIT corresponding to outstanding Common Shares), exceed (2) the product of (a) the weighted average (based on Common Shares and OP Units) of (i) the book value per OP Unit of the net assets contributed by Manager to the Company at its inception, (ii) the offering price per Common Share at the initial 144A securities offering of Parent REIT described in the Offering Memorandum, (iii) the offering price per Common Share (including Common Shares issued upon the exercise of warrants or options) at any secondary Common Share offerings by Parent REIT (adjusted for any prior capital dividends or distributions), and (iv) the issue price per OP Unit for subsequent contributions to the Operating Partnership, and (b) the greater of (i) nine and one-half percent (9.5%) per annum, and (ii) the Ten Year U.S. Treasury Rate plus three and one-half percent (3.5%) per annum, and (B) the weighted average number of OP Units outstanding, including OP Units issued to Parent REIT corresponding to outstanding Common Shares.

(ii) The Incentive Fee shall be payable annually in arrears; provided, however, Manager shall receive quarterly installments thereof in advance, and Manager shall calculate each such installment based on the period of twelve (12) months ending on the last day of the fiscal quarter with respect to which such installment is payable (provided, for calendar year 2003, such calculations shall be based on the period of three (3) or six (6) months, as applicable, ending on the last day of the fiscal quarter with respect to which such installment is payable), and deliver such calculation to the Board of Directors, within forty-five (45) days following the last day of each fiscal quarter. The Company shall pay Manager each installment of the Incentive Fee (each, an "Incentive Fee Payment") within sixty (60) days following the last day of the fiscal quarter with respect to which such Incentive Fee Payment is payable.

(iii) Twenty-five percent (25%) of the Incentive Fee shall (subject to the remaining provisions of this Section 8(d)(iii)) be payable to Manager in Common Shares, and the remainder thereof shall be paid in cash; provided, Manager may (subject to the remaining provisions of this Section 8(d)(iii)) elect, by so indicating

in the installment calculation delivered to Board of Directors, to receive more than twenty-five percent (25%) of the Incentive Fee in the form of Common Shares; provided, however, Manager may not receive payment of any portion of the Incentive Fee in the form of Common Shares, either automatically or by election, if such payment would result a violation of the Common Share ownership restrictions set forth in Parent REIT's Governing Instruments. For purposes of determining the Common Share equivalent of

the amount of the Incentive Fee payable in Common Shares, (A) prior to the date the Common Shares are publicly traded, each Common Share shall have a value equal to the book value per Common Share on the last day of the fiscal quarter with respect to which the Incentive Fee is being paid, and (B) from and after the date the Common Shares are publicly traded, each Common Share shall have a value equal to the average closing price per Common Share based on the period of (20) days ending on and including the last trading day of the fiscal quarter with respect to which the Incentive Fee is being paid. Manager's receipt of Common Shares in accordance herewith shall be subject to all applicable securities exchange rules and securities laws (including, without limitation, prohibitions on insider trading).

(iv) Each Incentive Fee Payment shall be deemed to be an advance of a portion of the Incentive Fee payable for the subject fiscal year. Manager shall calculate the Incentive Fee payable during the immediately preceding fiscal year (or partial fiscal year, if applicable, following the expiration or earlier termination of this Agreement), and deliver such calculation to the Board of Directors, within seventy-five (75) days following (A) the last day of each fiscal year during the term, and (B) the date of expiration or earlier termination of this Agreement. If the amount of the Incentive Fee for such fiscal year (or partial fiscal year, if applicable) exceeds the sum of the Incentive Fee Payments made during such fiscal year (or partial fiscal year, if applicable), the Company shall pay Manager the amount of such underpayment, subject to the provisions of Section 8(d)(iii), within fifteen (15) days after the date Manager delivers such calculation to the Board of Directors. If the amount of the Incentive Fee for such fiscal year (or partial fiscal year, if applicable) is less than the sum of the Incentive Fee Payments made during such fiscal year (or partial fiscal year, if applicable), Manager shall refund to the Company the amount of such overpayment, in cash, within fifteen (15) days after the date Manager delivers such calculation to the Board of Directors.

(v) The provisions of this Section 8(d) shall survive the expiration or earlier termination of this Agreement.

9. Expenses. The Company shall pay all of its expenses and shall reimburse Manager for documented expenses of Manager incurred on its behalf in accordance with this Agreement (collectively, the "Expenses"). Expenses include all costs and expenses which are expressly designated elsewhere in this Agreement as the Company's expenses, together with the following:

(a) expenses in connection with the issuance and transaction costs incident to the acquisition, disposition and financing of Investments;

(b) legal, accounting, tax and auditing fees and expenses of third parties for services rendered for Parent REIT and the Operating Partnership by providers retained by Manager;

(c) compensation, benefits and expenses of the Independent Directors and Parent REIT's and the Operating Partnership's employees;

(d) travel and other out-of-pocket expenses incurred by Parent REIT's and the Operating Partnership's employees in connection with the purchase, financing, refinancing, sale or other disposition of Investments;

(e) compensation and expenses of the Company's custodian and transfer agent, if any;

(f) the cost of liability insurance to indemnify (i) the Company's directors and officers, (ii) Manager and its directors and employees, and (iii) the underwriters in connection with any securities offerings of Parent REIT or the Operating Partnership;

(g) any litigation, arbitration or similar costs incurred by Manager on behalf of the Company relating to or arising from any claim, dispute or action brought by or against the Company;

(h) costs associated with the establishment and maintenance of any credit facilities or other indebtedness of the Company (including, without limitation, commitment and origination fees, legal fees, closing and other costs) or any securities offerings of Parent REIT or the Operating Partnership;

(i) costs incurred in raising capital for Parent REIT and the Operating Partnership, including fees and expenses of investment banks, financial advisors, banks and other lenders;

(j) key man life insurance costs for the Chief Executive Officer of Parent REIT;

(k) expenses relating to interest payments, dividends or distributions in cash or any other form made or caused to be made by the Board of Directors to or on account of the holders of securities or units of Parent REIT, the Operating Partnership or any other Subsidiary, including, without limitation, in connection with any dividend reinvestment plan;

(l) expenses relating to the production and distribution of communications to holders of securities or units of Parent REIT, the Operating Partnership or any other Subsidiary and other bookkeeping and clerical work necessary to maintain relations with the holders of such securities or units and to comply with the continuous reporting and other requirements of governmental entities or agencies, including, without limitation, (i) costs of preparing and filing required reports with the Securities and Exchange Commission, (ii) costs payable by Parent REIT to any transfer agent or registrar in connection with the listing and/or trading of the Common Shares on any exchange, (iii) fees payable by Parent REIT to any such exchange in connection with its listing, and (iv) costs of preparing, printing and mailing Parent REIT's annual report to its shareholders and proxy materials with respect to any meeting of Parent REIT's shareholders;

(m) other costs and expenses relating to the Company's business and investment operations, including, without limitation, the costs and expenses of acquiring,

owning, protecting, maintaining, developing and disposing of Investments, including taxes, license fees and appraisal, reporting, audit and legal fees; and

(n) such other extraordinary or non-recurring expenses as are incurred by Manager in connection with the performance of its services hereunder, provided, to the extent the same are incurred with respect to matters that do not fall within the provisions of the Guidelines, such expenses are approved by a majority of the Independent Directors.

Without regard to the amount of compensation received under this Agreement by Manager, Manager shall bear the following expenses: (i) the wages and salaries of Manager's officers and employees; (ii) rent attributable to the offices occupied by Manager separate from the office maintained for the Company; and (iii) all other "overhead" expenses of Manager. The foregoing notwithstanding, Manager agrees that it shall provide, at its expense, office space to the Company's employees.

10. Expense Reports and Reimbursements. Manager shall prepare a statement documenting the Expenses incurred during, and deliver the same to the Company within forty-five (45) days following, each fiscal quarter. Expenses incurred by Manager on behalf of the Company shall be reimbursed by the Company within sixty (60) days following each fiscal quarter. The provisions of this

Section 10 shall survive the expiration or earlier termination of this Agreement and the one-year origination period described in Section 3(e).

11. Limits of Manager Responsibility; Indemnification.

(a) Limits of Manager Responsibility. Manager assumes no responsibility under this Agreement other than to render the services set forth herein in good faith and shall not be responsible for any action of the Board of Directors in following or declining to follow any advice or recommendations of Manager, including as set forth in Section 7(b). Manager, its members, managers, officers and employees will not be liable to Parent REIT, the Operating Partnership, any other Subsidiary, the Board of Directors or Parent REIT's, the Operating Partnership's or any other Subsidiary's stockholders or partners for any acts or omissions by Manager, its members, managers, officers or employees pursuant to or in accordance with this Agreement, except as otherwise expressly provided in Section 11(c).

(b) Indemnification by Company. Parent REIT and/or the Operating Partnership shall, to the full extent lawful, reimburse, indemnify and hold Manager, its members, managers, officers and employees and each other Person, if any, controlling Manager (each, a "Manager Indemnified Party") harmless for and from any and all expenses, losses, damages, liabilities, demands, charges and claims of any nature whatsoever (including reasonable attorneys' fees and disbursements), excluding any claims by Manager's employees relating to the terms and conditions of their employment by Manager, in respect of or arising out of (i) any acts or omissions of such Manager Indemnified Party made in good faith in the performance of Manager's duties hereunder and not constituting such Manager Indemnified Party's bad faith, willful misconduct, gross negligence or material breach (beyond any applicable cure period) of Manager's duties under this Agreement, and (ii) the Company's or any of its shareholder's, director's, officer's or employee's bad faith, willful misconduct, gross negligence or material breach (beyond any applicable cure period) of the Company's obligations under this Agreement.

(c) Indemnification by Manager. Manager shall, to the full extent lawful, reimburse, indemnify and hold each of Parent REIT and the Operating Partnership, its shareholders, directors, officers and employees and each other Person, if any, controlling Parent REIT or the Operating Partnership harmless for and from any and all expenses, losses, damages, liabilities, demands, charges and claims of any nature whatsoever (including reasonable attorneys' fees and disbursements) in respect of or arising out of (i) Manager's or any of its member's, manager's, officer's or employee's bad faith, willful misconduct, gross negligence or material breach (beyond any applicable cure period) of Manager's duties under this Agreement, and (ii) any claims by Manager's employees relating to the terms and conditions of their employment by Manager.

(d) Survival. The provisions of this Section 11 shall survive the expiration or earlier termination of this Agreement and the one-year origination period described in Section 3(e).

12. No Joint Venture. Nothing in this Agreement shall be construed to make the Company and Manager partners or joint venturers or impose any liability as such on either of them.

13. Term; Termination.

(a) Term. This Agreement shall remain in full force and effect for a period of two (2) years following the date hereof and, unless terminated by the Company or Manager as set forth below, shall be renewed automatically for successive one (1) year periods thereafter, until this Agreement is terminated in accordance with the terms hereof.

(b) Non-Renewal/Termination Without Cause by Company. If the Company elects not to renew this Agreement at the expiration of the initial term or any renewal term thereafter as set forth in Section 13(a), or otherwise desires at any time after the expiration of the initial term to terminate this Agreement without cause, the Company shall deliver to Manager at least six (6) months' prior written notice thereof (the "Company Termination Notice"). In the Company Termination Notice, the Company shall specify the date, not less than six (6) months from the date of the Company Termination Notice, on which this Agreement shall terminate (the "Effective Termination Date"). For the avoidance

of doubt, the Company shall not have the right to terminate this Agreement without cause during the initial term hereof.

(c) Unfair Manager Compensation. The Company may terminate this Agreement in accordance with the terms and provisions of Section 13(b), effective upon six (6) months' prior written notice to Manager and payment to Manager of a termination fee equal to two (2) times the amount of the Management Fee and the Incentive Fee earned by Manager during the period of twelve (12) full calendar months most recently ended prior to such termination, for any reason. If such reason arises from a decision made by majority vote of the Independent Directors that the Management Fee payable to Manager is unfair, the Company shall not have the foregoing termination right in the event Manager agrees to continue to perform its duties hereunder at a fee that the Independent Directors determine to be fair; provided, however, Manager shall have the right to renegotiate the Management Fee by delivering to the Company, not less than three (3) months prior to the pending Effective Termination Date, written

notice (a "Notice of Proposal to Negotiate") of its intention to renegotiate the Management Fee. Thereupon, the Company and Manager shall endeavor to negotiate the Management Fee in good faith. Provided that the Company and Manager agree to a revised Management Fee (or other compensation structure) within three (3) months following the Company's receipt of the Notice of Proposal to Negotiate, the Company Termination Notice shall be deemed of no force and effect, and this Agreement shall continue in full force and effect on the terms stated herein, except that the Management Fee shall be the revised Management Fee (or other compensation structure) then agreed upon by the Company and Manager. The Company and Manager agree to execute and deliver an amendment to this Agreement setting forth such revised Management Fee promptly upon reaching an agreement regarding same. In the event that the Company and Manager are unable to agree to a revised Management Fee during such three (3) month period, this Agreement shall terminate on the Effective Termination Date. The Company's obligation to pay the termination fee set forth in this Section 13(c) shall survive the termination of this Agreement.

(d) Non-Renewal/Termination Without Cause by Manager. If Manager elects not to renew this Agreement at the expiration of the initial term or any renewal term thereafter as set forth in Section 13(a), or otherwise desires at any time after the expiration of the initial term to terminate this Agreement without cause, Manager shall deliver to the Company at least six (6) months' prior written notice thereof (the "Manager Termination Notice"). In the Manager Termination Notice, Manager shall specify the date, not less than six (6) months from the date of the Manager Termination Notice, on which this Agreement shall terminate. This Agreement shall terminate on the date specified in the Manager Termination Notice. For the avoidance of doubt, Manager shall not have the right to terminate this Agreement without cause during the initial term hereof.

(e) Termination Fees.

(i) Payable by Company. In the event the Company elects not to renew or terminates this Agreement without cause as permitted under Section 13(b) as a result of its decision to manage its assets internally, the Company shall pay to Manager, on the effective date of such termination, a termination fee equal to the amount of the Management Fee and the Incentive Fee earned by Manager during the period of twelve (12) full calendar months most recently ended prior to such termination. In the event the Company elects not to renew or terminates this Agreement without cause for any reason other than a decision to manage its assets internally, the termination fee payable by the Company to Manager shall be equal to two (2) times the amount of the Management Fee and the Incentive Fee earned by Manager during the period of twelve (12) full calendar months most recently ended prior to such termination. The Company's obligation to pay a termination fee shall survive the termination of this Agreement.

(ii) Payable by Manager. Prior to the third (3rd) anniversary of the date hereof, in the event Manager: (A) elects not to renew or terminates this Agreement without cause (but only as permitted under Section 13(d)) within two (2) years after a Change of Control occurred or within two (2) years after Manager executed an agreement that would result in a Change of Control; or (B) delivered a Manager Termination Notice indicating its election not to renew or to terminate

this Agreement (but only as permitted

under Section 13(d)), then a Change of Control occurs or Manager executes an agreement that will result in a Change of Control within one (1) year thereafter, Manager shall pay to the Company, on the effective date of termination of this Agreement, a termination fee equal to two (2) times the amount of the Management Fee and the Incentive Fee earned by Manager during the period of twelve (12) full calendar months most recently ended prior to such termination. Manager's obligation to pay such termination fee shall survive the termination of this Agreement.

(f) Survival. If this Agreement is terminated pursuant to this Section 13, such termination shall be without any further liability or obligation of either party to the other, except as otherwise expressly provided herein.

14. Assignment.

(a) Manager Assignment. Except as set forth in Section 14(c), this Agreement shall terminate at the Company's election and without payment of any termination fee, and any such assignment shall be null and void, in the event of its assignment, in whole or in part, by Manager, unless Manager obtains the prior written consent of Parent REIT and a majority of the Independent Directors; provided, however, no such consent shall be required in the case of an assignment by Manager to any affiliate whose day-to-day business and operations are managed and supervised by Principal. Any permitted assignment by Manager shall bind the assignee in the same manner as Manager is bound by the terms of this Agreement, and Manager shall be liable to the Company for all errors or omissions of the assignee under any such assignment. In addition, the assignee shall execute and deliver to the Company a counterpart of this Agreement naming such assignee as Manager. For purposes of this Section 14(a) and Section 14(c), "affiliate" means any Person controlling, controlled by or under common control with Manager, and "control" means the direct or indirect ownership of at least fifty-one percent (51%) of the beneficial equity interests in and voting power of such Person (and "controlling" and "under common control with" have meanings correlative to the foregoing).

(b) Parent REIT Assignment. This Agreement shall not be assigned by Parent REIT without Manager's prior written consent; provided, however, no such consent shall be required in the case of an assignment by Parent REIT to (i) a Subsidiary to which Parent REIT is also assigning its general partnership interest in the Operating Partnership, or (ii) a REIT or other organization which is a successor (by merger, consolidation or purchase of assets) to Parent REIT, in which case such successor organization shall be bound under this Agreement and by the terms of such assignment in the same manner as Parent REIT is bound by the terms of this Agreement.

(c) Manager Affiliate Subcontract and Partial Assignment. Notwithstanding any provision of this Agreement, Manager may subcontract and assign any or all of its responsibilities under Sections 2(b), (c) and (d) to any of its affiliates whose day-to-day business and operations are managed and supervised by Principal in accordance with the terms of this Agreement applicable to any such subcontract or assignment, and the Company hereby consents to any such subcontract and assignment. In addition, provided that Manager provides prior written notice to the Company for informational purposes only, nothing contained in this

Agreement shall preclude any pledge, hypothecation or other transfer of any amounts payable to Manager under this Agreement.

15. Termination for Cause.

(a) By Company. The Company may terminate this Agreement, by a majority vote of the Independent Directors and without payment of a termination fee, if:

(i) Manager commits fraud or acts or fails to act in a manner that constitutes gross negligence in the performance of

its duties hereunder;

(ii) Manager misappropriates or embezzles Company funds;

(iii) Manager commits some other willful violation of this Agreement in its corporate capacity (as distinguished from the acts of any employees of Manager which are taken without the complicity of Principal);

(iv) Parent REIT removes Principal from the position of Chief Executive Officer of Parent REIT for cause (as cause is defined in and interpreted in accordance with the Non-Competition Agreement);

(v) a Change of Control occurs;

(vi) Principal is no longer Chief Executive Officer of Manager (provided such condition is not a result of Principal's death, disability or incapacity); or

(vii) Manager defaults in the performance or observance of any material term, condition or covenant contained in this Agreement to be performed or observed on its part, and such default continues for a period of thirty (30) days after written notice thereof from the Company specifying such default and requesting that the same be remedied within such thirty (30) day period; provided, however, Manager shall have an additional sixty (60) days to cure such default if (A) such default cannot reasonably be cured with in thirty (30) days but can be cured within ninety (90) days, and (B) Manager shall have commenced to cure such default within the initial thirty (30) day period and thereafter diligently proceeds to cure the same within ninety (90) days of the date of the Company's original notice of the default.

Termination of this Agreement pursuant to this Section 15(a) shall become effective, in case of the foregoing (A) clauses (i) through (iv), upon seven (7) days' prior written notice to Manager, (B) clauses (v) and (vi), upon thirty (30) days' prior written notice to Manager, and (C) clause (vii), in the event of Manager's failure to cure and provided the Company has delivered to Manager a termination notice, upon the expiration of the applicable cure period.

(b) By Manager. Manager may terminate this Agreement, without payment of a termination fee, if the Company defaults in the performance or observance of any material term, condition or covenant contained in this Agreement to be performed or observed on its part, and such default continues for a period of thirty (30) days after written notice thereof from Manager specifying such default and requesting that the same be remedied within such thirty

(30) day period. This Agreement shall terminate, in the event of the Company's failure to cure and provided Manager has delivered to the Company a termination notice, upon the expiration of such thirty (30) day cure period.

16. Action Upon Termination or Expiration of Origination Period. From and after the effective date of termination of this Agreement pursuant to Sections 13, 14 or 15 or the expiration of the origination period described in Section 3(e), as applicable, Manager shall not be entitled to compensation for further services under this Agreement but shall be paid all compensation accruing to the date of termination or expiration of the origination period, as applicable, and a termination fee, if applicable. Upon such termination or expiration, Manager shall forthwith:

(a) after deducting any accrued compensation and reimbursement for Expenses to which it is then entitled, pay over to the Company all money collected and held for the account of the Company pursuant to this Agreement;

(b) deliver to the Board of Directors a full accounting, including a statement showing all payments collected and all money held by it, covering the period following the date of the last accounting furnished to the Board of Directors with respect to the Company; and

(c) deliver to the Board of Directors all property and documents of the Company provided to or obtained by Manager pursuant to or in connection with this Agreement, including all copies and extracts thereof in whatever form, then in Manager's possession or under its control.

17. Release of Money or other Property Upon Written Request. Manager agrees that any money or other property of the Company held by Manager under this Agreement shall be held by Manager as custodian for the Company, and Manager's records shall be clearly and appropriately marked to reflect the ownership of such money or other property by the Company. Upon the receipt by Manager of a written request signed by a duly authorized officer of the Company requesting Manager to release to the Company any money or other property then held by Manager for the account of the Company under this Agreement, Manager shall release such money or other property to the Company within a reasonable period of time, but in no event later than sixty (60) days following such request. Manager shall not be liable to the Company, the Independent Directors or Parent REIT's or the Operating Partnership's stockholders or partners for any acts or omissions by the Company in connection with the money or other property released to the Company in accordance with the terms hereof. The Company shall indemnify Manager and its members, managers, officers and employees against any and all expenses, losses, damages, liabilities, demands, charges and claims of any nature whatsoever which arise in connection with Manager's release of such money or other property to the Company in accordance with the terms of this Section 17. Indemnification pursuant to this Section 17 shall be in addition to any right of Manager to indemnification under Section 11.

18. Notices. Unless expressly provided otherwise in this Agreement, all notices, requests, demands and other communications required or permitted under this Agreement shall be in writing and shall be deemed to have been duly given, made and received when delivered against receipt or upon actual receipt of (a) personal delivery, (b) delivery by a reputable

overnight courier, (c) delivery by facsimile transmission against answerback, or (d) delivery by registered or certified mail, postage prepaid, return receipt requested, addressed as set forth below:

If to Parent REIT
or the Operating Partnership: Arbor Realty Trust, Inc.
333 Earle Ovington Boulevard, Suite 900
Uniondale, New York 11553
Attention: Chairman of the Board of Directors
Facsimile: 516-832-8043

If to Manager: Arbor Commercial Mortgage, LLC
333 Earle Ovington Boulevard
Uniondale, New York 11553
Attention: Frederick C. Herbst
Facsimile: 516-832-8043

Any party may alter the address to which communications or copies are to be sent by giving notice of such change of address in conformity with the provisions of this Section 18 for the giving of notice.

19. Binding Nature of Agreement; Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, personal representatives, successors and permitted assigns as provided in this Agreement.

20. Entire Agreement. This Agreement contains the entire agreement and understanding among the parties hereto with respect to the subject matter hereof and supersedes all prior and contemporaneous agreements, understandings, inducements and conditions, express or implied, oral or written, of any nature whatsoever with respect to the subject matter of this Agreement. The express terms of this Agreement control and supersede any course of performance and/or usage of the trade inconsistent with any of the terms of this Agreement. This Agreement may not be modified or amended other than by an agreement in writing signed by the parties hereto.

21. Governing Law. This Agreement and all questions relating to its validity, interpretation, performance and enforcement shall be governed by and construed, interpreted and enforced in accordance with the laws of the State

of New York, notwithstanding any New York or other conflict-of-law provisions to the contrary.

22. Indulgences, Not Waivers. Neither the failure nor any delay on the part of a party to exercise any right, remedy, power or privilege under this Agreement shall operate as a waiver thereof, nor shall any single or partial exercise of any right, remedy, power or privilege preclude any other or further exercise of the same or of any other right, remedy, power or privilege, nor shall any waiver of any right, remedy, power or privilege with respect to any occurrence be construed as a waiver of such right, remedy, power or privilege with respect to any other occurrence. No waiver shall be effective unless it is in writing and is signed by the party asserted to have granted such waiver.

23. Titles Not to Affect Interpretation. The titles of sections, paragraphs and subparagraphs contained in this Agreement are for convenience only, and they neither form a part of this Agreement nor are they to be used in the construction or interpretation of this Agreement.

24. Execution in Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original as against any party whose signature appears thereon, and all of which shall together constitute one and the same instrument. This Agreement shall become binding when one or more counterparts of this Agreement, individually or taken together, shall bear the signatures of all of the parties reflected hereon as the signatories.

25. Provisions Separable. The provisions of this Agreement are independent of and separable from each other, and no provision shall be affected or rendered invalid or unenforceable by virtue of the fact that for any reason any other or others of them may be invalid or unenforceable in whole or in part.

26. Principles of Construction. Words used herein regardless of the number and gender specifically used, shall be deemed and construed to include any other number, singular or plural, and any other gender, masculine, feminine or neuter, as the context requires. All references to recitals, sections, paragraphs and schedules are to the recitals, sections, paragraphs and schedules in or to this Agreement unless otherwise specified.

27. Amendments. This Agreement may be amended only in a writing signed by the parties hereto; provided the same has been approved by a majority of the Independent Directors. The approval of the holders of the Common Shares shall not be required for any amendments to this Agreement.

[NO FURTHER TEXT ON THIS PAGE]

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

Manager:

ARBOR COMMERCIAL MORTGAGE, LLC,
a New York limited liability company

By: /s/ Frederick C. Herbst

Name: Frederick C. Herbst
Title: Chief Financial Officer

Parent REIT:

ARBOR REALTY TRUST, INC.,
a Maryland corporation

By: /s/ Frederick C. Herbst

Name: Frederick C. Herbst
Title: Chief Financial Officer

Operating Partnership:

ARBOR REALTY LIMITED PARTNERSHIP,
a Delaware limited partnership

By: Arbor Realty GPOP, Inc.,
a Delaware corporation,
its general partner

By: /s/ Frederick C. Herbst

Name: Frederick C. Herbst
Title: Secretary and Treasurer

EXHIBIT 10.2

SERVICES AGREEMENT

THIS SERVICES AGREEMENT (this "Agreement"), dated as of July 1, 2003, is made by and among ARBOR REALTY TRUST, INC., a Maryland corporation ("Parent REIT"), ARBOR REALTY LIMITED PARTNERSHIP, a Delaware limited partnership ("Arbor OP", and together with Parent REIT, collectively, the "Company"), and ARBOR COMMERCIAL MORTGAGE, LLC, a New York limited liability company ("ACM").

WHEREAS, ACM provides certain management and advisory services to Parent REIT and Arbor OP pursuant to that certain Management and Advisory Agreement, dated as of July 1, 2003 (the "Management Agreement"), by and among the parties hereto;

WHEREAS, ACM desires to avail itself of the experience, advice and assistance of the asset management group of the Company to manage and service certain of ACM's assets consisting of sub- and non-performing mortgage loans (the "Serviced Assets"); and

WHEREAS, the Company is willing to perform the Services (as defined below) on the terms and conditions hereinafter set forth.

NOW THEREFORE, in consideration of the mutual agreements herein set forth and intending to be legally bound, the parties hereto hereby agree as follows:

1. Services.

(a) In exchange for ACM's agreement with respect to the Management Fee, as defined in and payable by the Company pursuant to the terms of the Management Agreement, the Company agrees to provide the following asset management services (the "Services") to ACM with respect to the Serviced Assets:

(i) reviewing loan files of the Serviced Assets to: (A) assess ACM's rights in and to collateral securing the subject loans, including bank accounts, letters of credit and funds held in escrow; and (B) identify guarantees, other credit support and additional sources of equity, if any;

(ii) conducting due diligence with respect to the Serviced Assets with an emphasis on exit strategies and exploring, developing and implementing strategic opportunities and plans to restructure debt and equity positions;

(iii) reviewing current operating statements of profit and loss and past and current rent rolls to assess operating and financial performance and the impact of existing and potential financial and operational issues relating to the collateral for the Serviced Assets;

(iv) recommending short- and long-term strategic alternatives for the management and disposition of the Serviced Assets based on the relevant market and market trends;

(v) overseeing rehabilitation projects and assessing whether new appraisals or environmental assessment or physical needs reports are necessary with respect to the collateral for the Serviced Assets;

(vi) formulating appropriate courses of action and conducting negotiations among all concerned parties regarding the workout of Serviced Assets;

(vii) structuring workout proposals and preparing analyses indicating the viability thereof;

(viii) evaluating liquidity concerns and capital adequacy and reserve requirements and performing liquidity analyses of

properties and ownership entities with respect to the collateral for the Serviced Assets; and

(ix) performing such other services as may be required from time to time for management and other activities relating to the Serviced Assets as ACM shall reasonably request.

(b) The Company, for and on behalf of the asset management group, makes no, and shall not be deemed to have made, any warranty regarding the quality of, and shall not be subject to any other standards or requirements of quality with respect to the performance of the Services; provided, however, the Company shall perform the Services (i) with the same degree of care and skill as it uses or would use in the performance of similar services relating to the management of the Company's assets, and (ii) in accordance with all applicable foreign, federal, state and local laws and regulations.

(c) The Board of Directors will periodically review the scope of the Services being provided to ACM and the time required of the asset management group of the Company to perform the same. If the Board of Directors determine by a majority vote that the nature of the Services and the asset management group's devotion of time with respect thereto have exceeded the Board of Directors' anticipated levels, as factored into the calculation of the Management Fee, by more than fifteen percent (15%) of such anticipated levels per fiscal quarter, then the Company shall deliver to ACM written notice thereof describing its findings in reasonable detail and indicating its desire to renegotiate the Management Fee or to reduce the scope of the Services, the quantity of the Serviced Assets or the time required to be devoted to the Services by the asset management group. Thereupon, the Company and ACM shall endeavor to renegotiate such matters in good faith. The Company and ACM agree to execute and deliver an amendment to the Management Agreement, if applicable, setting forth any revised Management Fee promptly upon reaching an agreement regarding same.

2. Term. This Agreement shall become effective on the date hereof, remain in full force and effect throughout the term of the Management Agreement as extended in accordance

therewith and terminate simultaneously with the expiration or earlier termination of the Management Agreement; provided, however, that this Agreement shall remain in full force and effect during the origination period described in Section 3(e) of the Management Agreement.

3. Indemnification.

(a) By the Company. The Company shall, to the full extent lawful, reimburse, indemnify and hold ACM, its members, managers, officers and employees and each other Person, if any, controlling ACM harmless for and from any and all expenses, losses, damages, liabilities, demands, charges and claims of any nature whatsoever (including reasonable attorneys' fees and disbursements) in respect of or arising out of (i) the Company's or any of its partner's, shareholder's, director's, officer's or employee's bad faith, willful misconduct, gross negligence or material breach of the Company's duties under this Agreement, and (ii) any claims by the Company's employees relating to the terms and conditions of their employment by the Company.

(b) By ACM. ACM shall, to the full extent lawful, reimburse, indemnify and hold the Company, its partners, shareholders, directors, officers and employees and each other Person, if any, controlling the Company (each, a "Company Indemnified Party") harmless for and from any and all expenses, losses, damages, liabilities, demands, charges and claims of any nature whatsoever (including reasonable attorneys' fees and disbursements), excluding any claims by the Company's employees relating to the terms and conditions of their employment by the Company, in respect of or arising out of (i) any acts or omissions of such Company Indemnified Party made in good faith in the performance of the Company's duties hereunder and not constituting such Company Indemnified Party's bad faith, willful misconduct, gross negligence or material breach of the Company's duties under this Agreement, and (ii) ACM's or any of its member's, manager's, officer's or employee's bad faith, willful misconduct, gross negligence or material breach of ACM's obligations under this Agreement.

4. Confidentiality.

(a) The Company shall keep confidential any nonpublic information obtained relating to the Serviced Assets and its performance of the Services and shall not disclose any such information (or use the same except in furtherance of its duties under this Agreement), except: (i) with ACM's prior written consent; (ii) to legal counsel, accountants and other professional advisors, so long as the Company informs such Persons of the confidential nature of such information and directs them to treat such information confidentially; (iii) to appraisers in the ordinary course of business; (iv) to governmental officials having jurisdiction over the Company; (v) as required by law or legal process to which the Company or any Person to whom disclosure is permitted hereunder is a party or in connection with the Company's assertion in any judicial or nonjudicial proceeding of any claim, counterclaim or defense against ACM; or (vi) information which has previously become available through the actions of a Person other than the Company not resulting from the Company's violation of this Section 4(a). The provisions of this Section 4(a) shall survive the expiration or earlier termination of this Agreement.

(b) Promptly after the expiration or earlier termination of this Agreement, the Company shall return to ACM all confidential and proprietary information provided to or obtained by the Company pursuant to or in connection with this Agreement and the performance of the Services hereunder, including all copies and extracts thereof in whatever form, in its possession or under its control.

5. Notices. All notices, requests, demands and other communications required or permitted hereunder shall be in writing and mailed, faxed or delivered by hand or courier service:

(a) if to Parent REIT or Arbor OP, to:

Arbor Realty Trust, Inc.
333 Earle Ovington Blvd., Suite 900
Uniondale, New York 11553
Attention: Chairman of the Board of Directors

(b) If to ACM:

Arbor Commercial Mortgage, LLC
333 Earle Ovington Blvd., Suite 900
Uniondale, New York 11553
Attention: Frederick C. Herbst

6. Cooperation; Further Assurances. Each party hereto shall cooperate with and provide assistance to the other parties consistent with the terms and conditions hereof to enable (a) the full performance of all obligations hereunder, and (b) the review and audit of books and records as they relate to the provision of the Services; such cooperation and assistance to include, without limitation, providing the other parties and their respective representatives and agents (including, without limitation, outside auditors) with reasonable access, during normal business hours and upon reasonable advance notice, to its employees, representatives and agents and its books, records, offices and properties relating to the Services.

7. Entire Agreement. Except for the terms of the Management Agreement relating to the calculation of the Management Fee, this Agreement shall constitute the entire agreement among the parties relating to the subject matter hereof and shall supersede all other prior or contemporary agreements, understandings, negotiations and discussions whether oral or written.

8. Amendment and Modification; Assignment. Neither this Agreement nor any of the terms or provisions hereof may be changed, supplemented, waived, modified or assigned except by a written instrument executed by the parties hereto (or in the case of a waiver, by the party granting such waiver); provided, however, (a) ACM may assign this Agreement to any Person to whom ACM assigns the Management Agreement (pursuant to the terms thereof) and who acquires the Serviced Assets, and (b) Parent REIT may assign this Agreement to any Person to whom Parent REIT assigns the Management Agreement (pursuant to the terms thereof).

9. Counterparts. This Agreement may be executed in two or more counterparts, each of which may be signed by any of the parties hereto, each of which shall be deemed an original and all of which together shall constitute one and the same instrument.

10. Governing Law. This Agreement and all questions relating to its validity, interpretation, performance and enforcement shall be governed by, construed, interpreted and enforced in accordance with the laws of the State of New York, notwithstanding any New York or other conflict-of-law provisions to the contrary.

11. Invalid Provisions. If any provision of this Agreement is held to be illegal, invalid or unenforceable under present or future laws, such provision shall be fully severable, this Agreement shall be construed and enforced as if such illegal, invalid or unenforceable provision had never comprised a part of hereof and the remaining provisions of this Agreement shall remain in full force and effect and shall not be affected by the illegal, invalid or unenforceable provision or by its severance herefrom.

12. Definitions and Interpretation.

(a) Defined Terms. Capitalized terms used but not defined herein shall have the meanings ascribed thereto in the Management Agreement.

(b) Singular and Plural Forms. The use herein of the singular form shall also denote the plural form, and the use herein of the plural form shall denote the singular form, as in each case the context may require.

[NO FURTHER TEXT ON THIS PAGE]

IN WITNESS WHEREOF, the parties to hereto have duly executed this Agreement as of the day and year first written above.

Parent REIT:

ARBOR REALTY TRUST, INC.,
a Maryland corporation

By: /s/ Frederick C. Herbst

Name: Frederick C. Herbst
Title: Chief Financial Officer

Arbor OP:

ARBOR REALTY LIMITED PARTNERSHIP,
a Delaware limited partnership

By: Arbor Realty GPOP, Inc.,
a Delaware corporation,
its general partner

By: /s/ Frederick C. Herbst

Name: Frederick C. Herbst
Title: Secretary and Treasurer

ACM:

ARBOR COMMERCIAL MORTGAGE, LLC,
a New York limited liability company

By: /s/ Frederick C. Herbst

Name: Frederick C. Herbst
Title: Chief Financial Officer

EXHIBIT 10.3

NON-COMPETITION AGREEMENT

This NON-COMPETITION AGREEMENT (this "Agreement") is made and entered into as of July 1, 2003, by and among Arbor Realty Trust, Inc., a Maryland corporation (the "REIT"), Arbor Realty Limited Partnership, a Delaware limited partnership of which the REIT holds a general partner and a limited partner interest through wholly owned subsidiaries (the "Operating Partnership", together with the REIT, the "Company"), and Ivan Kaufman (the "Executive"). Capitalized terms not defined herein shall have the meanings ascribed to them in that certain Management and Advisory Agreement, dated as of July 1, 2003, by and between Arbor Commercial Mortgage, LLC, a New York limited liability company ("ACM"), and the Company (the "Management Agreement").

WHEREAS, the Executive is the chief executive officer and chairman of the Board of Directors of the REIT and president and chief executive officer of ACM; and

WHEREAS, pursuant to the Management Agreement, ACM will manage and advise the Company and provide a dedicated management team, including the Executive, to provide the management services to the Company, and the Executive is willing to provide the management services to the Company; and

WHEREAS, the Company desires to have the Executive enter into this Agreement in order to protect the Company from unfair competition, and the Executive is willing to enter into this Agreement in order to induce the Company to permit the Executive to participate in the Company's 2003 Omnibus Stock Incentive Plan.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the Company and the Executive, the parties hereto agree as follows:

1. Non-Solicitation and Non-Competition. During the term of this Agreement,

(a) the Executive shall not, directly or indirectly, on the Executive's own behalf or on behalf of any other Person, solicit, induce, encourage or attempt to solicit or induce any employee of the Company or its subsidiaries to terminate, alter or cease his, her or its relationship with the Company or its subsidiaries for any purpose; the Executive shall not, directly or indirectly, on the Executive's own behalf or on behalf of any other Person, solicit, induce, encourage or attempt to solicit or induce any employee of ACM or its subsidiaries to terminate, alter or cease his, her or its relationship with ACM or its subsidiaries for the purpose of employing such employee in a business that solicits or intends to solicit Company Target Investments;

(b) the Executive shall not, except as pursuant to the Management Agreement, directly or indirectly, on the Executive's own behalf or on behalf of any other

Person, solicit, induce, divert, appropriate or attempt to solicit, induce, divert or appropriate to any Person (1) a Company Target Investment, or (ii) a customer of the Company, ACM or its subsidiaries, which customer is a potential obligor on a Company Target Investment;

(c) the Executive shall not, except as pursuant to the Management Agreement, directly or indirectly, own manage, operate, join, control or participate in or be connected with, as an officer, director, adviser, employee, consultant, partner or agent (whether paid or unpaid), any entity, business, individual, partnership, firm or corporation, which is at the time engaged in a business which is, directly or indirectly, in competition with the business of the REIT with respect to Company Target Investments; and

(d) Nothing stated herein shall be interpreted to prohibit or preclude the Executive's authority and ability to manage the Company, ACM or any of their respective subsidiaries and to supervise, review or terminate any employees of each of the Company, ACM, or any of their respective subsidiaries.

2. Right of First Refusal; Exclusivity. The Executive and the Company acknowledge that as an officer of ACM, the Executive is a Manager Party and that the provisions set forth in Sections 3(b) and 3(c) of the Management Agreement are hereby incorporated by reference into this Agreement as though fully set forth herein.

3. Term. Subject to the provisions set forth below, this Agreement shall remain in full force and effect for the following periods:

(a) as long as the Executive serves as chief executive officer of the REIT;

(b) as long as the Executive serves as an officer or, directly or indirectly, controls ACM (such service or control causing him to be an "Affiliate"), during the term of the Management Agreement plus the agreed term of any Origination Period;

(c) if the Executive ceases to be an Affiliate of ACM and, within the first five (5) years of the term of the Management Agreement, ceases to be chief executive officer of the REIT for any reason other than (i) the Executive terminates his position for Good Reason, (ii) the REIT terminates the Executive's position without Cause or (iii) a Change of Control, for a period of one (1) year commencing on the earlier of (A) the date that he ceases to be chief executive officer of the REIT or (B) the expiration of the Origination Period;

(d) if, within the first three (3) years of the term of the Management Agreement, (i) there is a Change of Control, (ii) the Executive ceases to be an Affiliate of ACM and (iii) the Executive terminates his position as chief executive officer of the REIT other than for Good Reason, for a period of one (1) year commencing on the date that he terminates his position as chief executive officer of the REIT; and

(e) if the Executive ceases to be an Affiliate of ACM and ceases to be chief executive officer of the REIT for the reasons set forth below, for the period preceding the date he ceases to be chief executive officer of the REIT:

(i) the Executive terminates his position as chief executive officer of the REIT for Good Reason (as defined below);

(ii) the REIT terminates the Executive's position as chief executive officer of the REIT for any reason other than for Cause (as defined below); or

(iii) if, following a Change of Control, the Executive terminates his position as chief executive officer of the REIT after the first three (3) years of the term of the Management Agreement.

4. Termination for Cause by the Company. The Company may terminate the Executive's position as chief executive officer of the REIT for Cause at any time. For purposes of this Agreement, Cause shall be deemed to exist if a majority of the Independent Directors determines that:

(a) the Executive has committed fraud or acts or fails to act in a manner that constitutes gross negligence in the performance of his duties under this Agreement or the Management Agreement;

(b) the Executive has misappropriated or embezzled Company funds; and

(c) the Executive otherwise engages in a willful violation of this Agreement, defaults in the performance or observance of any material term, condition or covenant contained in this Agreement to be performed or observed on its part, or materially fails to follow the reasonable directive of the Board of Directors of the REIT or the general partner of the Operating Partnership, and such violation, default or failure continues for a period of thirty (30) days after written notice thereof from the Company specifying such

violation, default or failure and requesting that the same be remedied within such thirty (30) day period; provided, however, the Executive shall have an additional sixty (60) days to cure such violation, default or failure if (A) such violation, default or failure cannot reasonably be cured with in thirty (30) days but can be cured within ninety (90) days, and (B) the Executive shall have commenced to cure such violation, default or failure within the initial thirty (30) day period and thereafter diligently proceeds to cure the same within ninety (90) days of the date of the Company's original notice of the violation, default or failure.

Termination for Cause pursuant to this Section 4 shall become effective, in case of the foregoing clauses (a) and (b), upon seven (7) days' prior written notice to the Executive, and clause (c), upon the expiration of the applicable cure period and notice to the Executive.

5. Termination for Good Reason by the Executive. The Executive may terminate his position as chief executive officer of the REIT, effective upon sixty (60) days' prior written notice to the Company, if the Company engages in a willful violation or defaults in the performance or observance of Section 3(c) of the Management Agreement, and such violation or default continues for a period of thirty (30) days after written notice thereof from the Executive specifying such violation or default and requesting that the same be remedied within such thirty (30) day period (termination for "Good Reason").

6. Adequate Consideration and Ability to Earn Livelihood. The Executive expressly acknowledges that (i) he will be able to earn a livelihood without violating the covenants set forth in this Agreement, and (ii) his ability to do so was a condition precedent to the Company's entering into this Agreement.

7. Reasonable Limit. The Company and the Executive have attempted to limit the Executive's right to compete only to the extent necessary to protect the Company and its subsidiaries from unfair competition. The Executive expressly acknowledges that the restrictive provisions of this Agreement constitute reasonable restrictions. If, however, the scope or enforceability of the restrictive provisions contained in this Agreement is disputed at any time, a court or other trier of fact may modify and enforce the covenant to the extent that it believes is reasonable under the circumstances existing at that time.

8. Breach of Agreement. In the event the Company terminates this Agreement for Cause, the Executive acknowledges that the legal remedies may be inadequate and that, in addition to monetary damages, the Company shall be entitled, without necessity of posting any bond, to any injunctive order restraining such breach immediately upon the commencement of any suit therefor by the Company.

9. Assignment.

(a) This Agreement shall not be assigned by the Executive without the Company's prior written consent.

(b) This Agreement shall not be assigned by the REIT without the Executive's prior written consent; provided, however, no such consent shall be required in the case of an assignment by the REIT to another Real Estate Investment Trust or other organization which is a successor (by merger, consolidation or purchase of assets) to the REIT, in which case such successor organization shall be bound under this Agreement and by the terms of such assignment in the same manner as the REIT is bound by the terms of this Agreement.

10. Notices. Unless expressly provided otherwise in this Agreement, all notices, requests, demands and other communications required or permitted under this Agreement shall be in writing and shall be deemed to have been duly given, made and received when delivered against receipt or upon actual receipt of (a) personal delivery, (b) delivery by a reputable overnight courier, (c) delivery by facsimile transmission

against answerback, or (d) delivery by registered or certified mail, postage prepaid, return receipt requested, addressed as set forth below:

If to the REIT or the Operating Partnership:	Arbor Realty Trust, Inc. 333 Earle Ovington Boulevard, Suite 900 Uniondale, New York 11553 Attention: Chairman of the Board of Directors Facsimile: (516) 832-8043
If to the Executive:	Ivan Kaufman 333 Earle Ovington Boulevard, Suite 900 Uniondale, New York 11553 Facsimile: (516) 832-8043

Any party may alter the address to which communications or copies are to be sent by giving notice of such change of address in conformity with the provisions of this Section 11 for the giving of notice.

11. Binding Nature of Agreement; Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, personal representatives, successors and permitted assigns as provided in this Agreement.

12. Entire Agreement. This Agreement contains the entire agreement and understanding among the parties hereto with respect to the subject matter hereof and supersedes all prior and contemporaneous agreements, understandings, inducements and conditions, express or implied, oral or written, of any nature whatsoever with respect to the subject matter of this Agreement. The express terms of this Agreement control and supersede any course of performance and/or usage of the trade inconsistent with any of the terms of this Agreement. This Agreement may not be modified or amended other than by an agreement in writing signed by the parties hereto.

13. Governing Law. This Agreement and all questions relating to its validity, interpretation, performance and enforcement shall be governed by and construed, interpreted and enforced in accordance with the laws of the State of New York, notwithstanding any New York or other conflict-of-law provisions to the contrary.

14. Indulgences, Not Waivers. Neither the failure nor any delay on the part of a party to exercise any right, remedy, power or privilege under this Agreement shall operate as a waiver thereof, nor shall any single or partial exercise of any right, remedy, power or privilege preclude any other or further exercise of the same or of any other right, remedy, power or privilege, nor shall any waiver of any right, remedy, power or privilege with respect to any occurrence be construed as a waiver of such right, remedy, power or privilege with respect to any other occurrence. No waiver shall be effective unless it is in writing and is signed by the party to asserted to have granted such waiver.

15. Titles Not to Affect Interpretation. The titles of sections, paragraphs and subparagraphs contained in this Agreement are for convenience only, and they

neither form a part of this Agreement nor are they to be used in the construction or interpretation of this Agreement.

16. Execution in Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original as against any party whose signature appears thereon, and all of which shall together constitute one and the same instrument. This Agreement shall become binding when one or more counterparts of this Agreement, individually or taken together, shall bear the signatures of all of the parties reflected hereon as the signatories.

17. Provisions Separable. The provisions of this Agreement are independent of and separable from each other, and no provision shall be affected or rendered invalid or unenforceable by virtue of the fact that for any reason any other or others of them may be invalid or unenforceable

in whole or in part.

18. Principles of Construction. Words used herein regardless of the number and gender specifically used, shall be deemed and construed to include any other number, singular or plural, as the context requires. All references to recitals, sections, paragraphs and schedules are to the recitals, sections, paragraphs and schedules in or to this Agreement unless otherwise specified.

19. Amendments. This Agreement may be amended only in a writing signed by the parties hereto; provided the same has been approved by a majority of the Independent Directors.

[NO FURTHER TEXT ON THIS PAGE]

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

Arbor Realty Trust, Inc.,
a Maryland corporation

By: /s/ Frederick C. Herbst

Name: Frederick C. Herbst
Title: Chief Financial Officer,
Treasurer and Secretary

Arbor Realty Limited Partnership,
a Delaware liability partnership

By: Arbor Realty GPOP, Inc.
a Delaware corporation, its general
partner

By: /s/ Frederick C. Herbst

Name: Frederick C. Herbst
Title: Secretary and Treasurer

/s/ Ivan Kaufman

Ivan Kaufman

EXHIBIT 10.4

AMENDED AND RESTATED

AGREEMENT OF LIMITED PARTNERSHIP

OF

ARBOR REALTY LIMITED PARTNERSHIP

a Delaware limited partnership

THE SECURITIES EVIDENCED HEREBY HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT"), OR THE SECURITIES LAWS OF ANY STATE AND MAY NOT BE SOLD, TRANSFERRED OR OTHERWISE DISPOSED OF IN THE ABSENCE OF SUCH REGISTRATION, UNLESS THE TRANSFEROR DELIVERS TO THE PARTNERSHIP AN OPINION OF COUNSEL SATISFACTORY TO THE PARTNERSHIP, IN FORM AND SUBSTANCE SATISFACTORY TO THE PARTNERSHIP, TO THE EFFECT THAT THE PROPOSED SALE, TRANSFER OR OTHER DISPOSITION MAY BE EFFECTED WITHOUT REGISTRATION UNDER THE SECURITIES ACT AND UNDER APPLICABLE STATE SECURITIES OR "BLUE SKY" LAWS.

dated as of July 1, 2003

AMENDED AND RESTATED AGREEMENT
OF
LIMITED PARTNERSHIP
OF
ARBOR REALTY LIMITED PARTNERSHIP

THIS AMENDED AND RESTATED AGREEMENT OF LIMITED PARTNERSHIP OF ARBOR REALTY LIMITED PARTNERSHIP, dated as of July 1, 2003, is entered into by and among ARBOR REALTY GPOP, INC., a Delaware corporation (the "General Partner"), ARBOR REALTY LPOP, INC., a Delaware corporation (the "Initial Limited Partner"), ARBOR COMMERCIAL MORTGAGE, LLC, a New York limited liability company (as a Limited Partner, and, together with the Initial Limited Partner, the "Limited Partners") and ARBOR REALTY TRUST, INC., a Maryland corporation that intends to elect to be taxed as a real estate investment trust (the "Parent REIT").

WHEREAS, ARBOR REALTY LIMITED PARTNERSHIP (the "Partnership") was formed by ARBOR REALTY GPOP, INC., as general partner, and ARBOR REALTY LPOP, INC., as initial limited partner, as a limited partnership under the laws of the State of Delaware by the filing of a Certificate of Limited Partnership with the Secretary of State of Delaware on June 24, 2003;

WHEREAS, ARBOR REALTY GPOP, INC. and ARBOR REALTY LPOP, INC. entered into that certain Agreement of Limited Partnership of Arbor Realty Limited Partnership on June 24, 2003;

WHEREAS, ARBOR REALTY GPOP, INC. and ARBOR REALTY LPOP, INC. now desire to admit and ARBOR COMMERCIAL MORTGAGE, LLC wishes to join the Partnership as a limited partner;

WHEREAS, ARBOR REALTY GPOP, INC., ARBOR REALTY LPOP, INC. and ARBOR COMMERCIAL MORTGAGE, LLC wish to establish their relative general and limited partnership interests in the Partnership;

WHEREAS, ARBOR REALTY GPOP, INC. and ARBOR REALTY LPOP, INC. are wholly-owned subsidiaries of Parent REIT; and

WHEREAS, the Limited Partners, the General Partner and the Parent REIT desire to enter into this Amended and Restated Agreement of Limited Partnership as of July 1, 2003.

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

ARTICLE I
DEFINED TERMS

The following definitions shall be for all purposes, unless otherwise clearly indicated to the contrary, applied to the terms used in this Agreement.

"Act" means the Delaware Revised Uniform Limited Partnership Act (6 Del. C. Section 17-101 et seq.), as it may be amended from time to time, and any successor to such statute.

"Actions" has the meaning set forth in Section 7.7 hereof.

"Additional Funds" has the meaning set forth in Section 4.3.A hereof.

"Additional Limited Partner" means a Person who is admitted to the Partnership as a Limited Partner pursuant to Section 4.2 and Section 12.2 hereof and who is shown as such on the books and records of the Partnership.

"Adjusted Capital Account Deficit" means, with respect to any Partner, the deficit balance, if any, in such Partner's Capital Account as of the end of the relevant Partnership Year, after giving effect to the following adjustments:

(i) decrease such deficit by any amounts that such Partner is obligated to restore pursuant to this Agreement or by operation of law upon liquidation of such Partner's Partnership Interest or is deemed to be obligated to restore pursuant to the penultimate sentence of each of Regulations Sections 1.704-2(g)(1) and 1.704-2(i)(5); and

(ii) increase such deficit by the items described in Regulations Section 1.704-1(b)(2)(ii)(d)(4), (5) and (6).

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

"Adjustment Factor" means 1.0; provided, however, that in the event that:

(i) the Parent REIT (a) 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, (b) splits or subdivides its outstanding REIT Shares or (c) effects a reverse stock split or otherwise combines its outstanding REIT Shares into a smaller number of REIT Shares, the Adjustment Factor shall be adjusted by multiplying the Adjustment Factor previously in effect by a fraction, (i) the numerator of which shall be the number of REIT Shares issued and outstanding on the record date for such dividend, distribution, split, subdivision, reverse split or combination (assuming for such purposes that such dividend, distribution, split, subdivision, reverse split or combination has occurred as of such time) and (ii) 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, split, subdivision, reverse split or combination;

(ii) the Parent REIT distributes any rights, options or warrants to all holders of its REIT Shares to subscribe for or to purchase or to otherwise acquire REIT Shares (or other securities or rights convertible into, exchangeable for or exercisable for REIT Shares) at a price per share less than the Value of a REIT Share on the record date for such distribution (each a "Distributed Right"), then the Adjustment Factor shall be adjusted by multiplying the Adjustment Factor previously in effect by a fraction (a) the numerator of which shall be the number of REIT Shares issued and outstanding on the record date plus the maximum number of REIT Shares purchasable under such Distributed Rights and (b) the denominator of which shall be the number of REIT Shares issued and outstanding on the record date plus a fraction (1) the numerator of which is the maximum number of REIT Shares purchasable under such Distributed Rights times the minimum purchase price per REIT Share under such Distributed Rights and (2) the denominator of which is the Value of a REIT Share as of the record date; provided, however, that, if any such Distributed Rights expire or become no longer exercisable, then the Adjustment Factor shall be adjusted, effective retroactive to the date of distribution of the Distributed Rights, to reflect a reduced maximum number of REIT Shares or any change in the minimum purchase price for the purposes of the above fraction; and

(iii) the Parent REIT shall, by dividend or otherwise, distribute to all holders of its REIT Shares evidences of its indebtedness or assets (including securities, but excluding any dividend or distribution referred to in subsection (i) above), which evidences of indebtedness or assets relate to assets not received by the Parent REIT pursuant

to a pro rata distribution by the Partnership, then the Adjustment Factor shall be adjusted to equal the amount determined by multiplying

the Adjustment Factor in effect immediately prior to the close of business on the date fixed for determination of shareholders entitled to receive such distribution by a fraction (i) the numerator of which shall be such Value of a REIT Share on the date fixed for such determination and (ii) the denominator of which shall be the Value of a REIT Share on the dates fixed for such determination less the then fair market value (as determined by the General Partner, whose determination shall be conclusive) of the portion of the evidences of indebtedness or assets so distributed applicable to one REIT Share.

Any adjustments to the Adjustment Factor shall become effective immediately after the effective date of such event, retroactive to the record date, if any, for such event, provided, however, that any Limited Partner may waive, by written notice to the General Partner, the effect of any adjustment to the Adjustment Factor applicable to the Partnership Common Units held by such Limited Partner, and, thereafter, such adjustment will not be effective as to such Partnership Common Units. For illustrative purposes, examples of adjustments to the Adjustment Factor are set forth on Exhibit B attached hereto.

"Affiliate" means, with respect to any Person, any Person directly or indirectly controlling or controlled by or under common control with such Person. For the purposes of this definition, "control" when used with respect to any Person means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such Person, whether through the ownership of voting securities, by contract or otherwise, and the terms "controlling" and "controlled" have meanings correlative to the foregoing.

"Agreement" means this Amended and Restated Agreement of Limited Partnership of Arbor Realty Limited Partnership, as it may be amended, supplemented or restated from time to time.

"Applicable Percentage" has the meaning set forth in Section 8.6.B hereof.

"Appraisal" means, with respect to any assets, the written opinion of an independent third party experienced in the valuation of similar assets, selected by the General Partner in good faith. Such opinion may be in the form of an opinion by such independent third party that the value for such property or asset as set by the General Partner is fair, from a financial point of view, to the Partnership.

"Assignee" means a Person to whom one or more Partnership Common Units have been Transferred in a manner permitted under this Agreement, but who has not become a Substituted Limited Partner, and who has the rights set forth in Section 11.5 hereof.

"Available Cash" means, with respect to any period for which such calculation is being made,

(i) the sum, without duplication, of:

(1) the Partnership's Net Income or Net Loss (as the case may be) for such period,

(2) Depreciation and all other noncash charges to the extent deducted in determining Net Income or Net Loss for such period,

(3) the amount of any reduction in reserves of the Partnership referred to in clause (ii)(6) below (including, without limitation, reductions resulting because the General Partner determines such amounts are no longer necessary),

(4) the excess, if any, of the net cash proceeds from the sale, exchange, disposition, financing or refinancing of Property for such period over the gain (or loss, as the case may be), if any, recognized from such sale, exchange, disposition,

financing or refinancing during such period (excluding Terminating Capital Transactions), and

(5) all other cash received (including amounts previously accrued as Net Income and amounts of deferred income) or any net amounts borrowed by the Partnership for such period that was not included in determining Net Income or Net Loss for such period;

(ii) less the sum, without duplication, of:

(1) all principal debt payments made during such period by the Partnership,

(2) capital expenditures made by the Partnership during such period,

(3) investments in any entity (including loans made thereto) to the extent that such investments are not otherwise described in clause (ii)(1) or clause (ii)(2) above,

(4) all other expenditures and payments not deducted in determining Net Income or Net Loss for such period (including amounts paid in respect of expenses previously accrued),

(5) any amount included in determining Net Income or Net Loss for such period that was not received by the Partnership during such period,

(6) the amount of any increase in reserves (including, without limitation, working capital reserves) established during such period that the General Partner determines are necessary or appropriate in its sole and absolute discretion, and

(7) any amount distributed or paid in redemption of any Limited Partner Interest or Partnership Units including, without limitation, any Cash Amount paid.

Notwithstanding the foregoing, Available Cash shall not include (a) any cash received or reductions in reserves, or take into account any disbursements made, or reserves established, after dissolution and the commencement of the liquidation and winding up of the Partnership or (b) any Capital Contributions, whenever received.

"Business Day" means any day except a Saturday, Sunday or other day on which commercial banks in New York, New York are authorized or required by law to close.

"Capital Account" means, with respect to any Partner, the Capital Account maintained by the General Partner for such Partner on the Partnership's books and records in accordance with the following provisions:

A. To each Partner's Capital Account, there shall be added such Partner's Capital Contributions, such Partner's distributive share of Net Income and any items in the nature of income or gain that are specially allocated pursuant to Section 6.3 hereof, and the principal amount of any Partnership liabilities assumed by such Partner or that are secured by any property distributed to such Partner.

B. From each Partner's Capital Account, there shall be subtracted the amount of cash and the Gross Asset Value of any property distributed to such Partner pursuant to any provision of this Agreement, such Partner's distributive share of Net Losses and any items in the nature of expenses or losses that

are specially allocated pursuant to Section 6.3 hereof, and the principal amount of any liabilities of such Partner assumed by the Partnership or that are secured by any property contributed by such Partner to the Partnership.

C. In the event any interest in the Partnership is Transferred in accordance with the terms of this Agreement, the transferee shall succeed to the Capital Account of the transferor to the extent that it relates to the Transferred interest.

D. In determining the principal amount of any liability for purposes of subsections (A) and (B) hereof, there shall be taken into account Code Section 752(c) and any other applicable provisions of the Code and Regulations.

E. The provisions of this Agreement relating to the maintenance of Capital Accounts are intended to comply with Regulations Sections 1.704-1(b) and 1.704-2, and shall be interpreted and applied in a manner consistent with such Regulations. If the General Partner shall determine that it is prudent to modify the manner in which the Capital Accounts are maintained in order to comply with such Regulations, the General Partner may make such modification provided that such modification will not have a material effect on the amounts distributable to any Partner without such Partner's Consent. The General Partner also shall (i) make any adjustments that are necessary or appropriate to maintain equality between the Capital Accounts of the Partners and the amount of Partnership capital reflected on the Partnership's balance sheet, as computed for book purposes, in accordance with Regulations Section 1.704-1(b)(2)(iv)(q) and (ii) make any appropriate modifications in the event that unanticipated events might otherwise cause this Agreement not to comply with Regulations Section 1.704-1(b) or Section 1.704-2.

"Capital Account Deficit" has the meaning set forth in Section 13.2.C hereof.

"Capital Contribution" means, with respect to any Partner, the amount of money and the initial Gross Asset Value of any Contributed Property that such Partner contributes to the Partnership pursuant to Section 4.1, 4.2 or 4.3 hereof or is deemed to contribute pursuant to Section 4.4 hereof.

"Cash Amount" means, with respect to a Tendering Party, an amount of cash equal to the product of (A) the Value of a REIT Share and (B) such Tendering Party's REIT Shares Amount determined as of the date of receipt by the General Partner of such Tendering Party's Notice of Redemption or, if such date is not a Business Day, the immediately preceding Business Day; provided, however, that,

(1) in the event of a Declination not followed by an Offering Funding, the Cash Amount shall be an amount of cash equal to the product of (x) 100% minus such Tendering Party's Applicable Percentage, and (y) the product of the amounts contemplated by clauses (A) and (B) above, and

(2) in the event of a Declination followed by an Offering Funding, the Cash Amount shall be an amount of cash equal to the product of: (i) the amount contemplated by clause (B) above, (ii)100% minus such Tendering Party's Applicable Percentage, and (iii) the Offering Value. The term "Offering Value" shall be the quotient obtained by dividing the Offering Funding Amount by the number of Offering Funding Shares sold in such Offering Funding.

"Certificate" means the Certificate of Limited Partnership of the Partnership filed in the office of the Secretary of State of the State of Delaware, as amended from time to time in accordance with the terms hereof and the Act.

"Charter" means the Articles of Incorporation of the Parent REIT filed with the State Department of Assessments and Taxation of Maryland, as amended, supplemented or restated from time to time.

"Class A Preferred Units" have the meaning set forth in Section 4.11 hereof.

"Closing Price" has the meaning set forth in the definition of "Value."

"Code" means the Internal Revenue Code of 1986, as amended and in effect from time to time or any successor statute thereto, as interpreted by the applicable Regulations thereunder. Any reference herein to a specific section or sections of the Code shall be deemed to include a reference to any corresponding provision of future law.

"Company Employees" means the employees of the Partnership, the Parent REIT and any of their subsidiaries.

"Consent" means the consent to, approval of, or vote in favor of a proposed action by a Partner given in accordance with Article 14 hereof.

"Consent of the Limited Partners" means the Consent of a Majority in Interest of the Limited Partners, which Consent shall be obtained prior to the taking of any action for which it is required by this Agreement and, except as otherwise provided in this Agreement, may be given or withheld by a Majority in Interest of the Limited Partners.

"Contributed Property" means each item of Property or other asset, in such form as may be permitted by the Act, but excluding cash, contributed or deemed contributed to the Partnership (or deemed contributed by the Partnership to a "new" partnership pursuant to Code Section 708).

"Controlled Entity" means, as to any Limited Partner, (a) any corporation more than fifty percent (50%) of the outstanding voting stock of which is owned by such Limited Partner or such Limited Partner's Family Members, (b) any trust, whether or not revocable, of which such Limited Partner or such Limited Partner's Family Members are the sole beneficiaries, (c) any partnership of which such Limited Partner is the managing partner and in which such Limited Partner or such Limited Partner's Family Members hold partnership interests representing at least twenty-five percent (25%) of such partnership's capital and profits and (d) any limited liability company of which such Limited Partner is the manager or managing member and in which such Limited Partner or such Limited Partner's Family Members hold membership interests representing at least twenty-five percent (25%) of such limited liability company's capital and profits.

"Cut-Off Date" means the fifth (5th) Business Day after the General Partner's receipt of a Notice of Redemption.

"Debt" means, as to any Person, as of any date of determination, (i) all indebtedness of such Person for borrowed money or for the deferred purchase price of property or services; (ii) all amounts owed by such Person to banks or other Persons in respect of reimbursement obligations under letters of credit, surety bonds and other similar instruments guaranteeing payment or other performance of obligations by such Person; (iii) all indebtedness for borrowed money or for the deferred purchase price of property or services secured by any lien on any property owned by such Person, to the extent attributable to such Person's interest in such property, even though such Person has not assumed or become liable for the payment thereof; and (iv) lease obligations of such Person that, in accordance with generally accepted accounting principles, should be capitalized.

"Declination" has the meaning set forth in Section 8.6.D hereof.

"Depreciation" means, for each Partnership Year or other applicable period, an amount equal to the federal income tax depreciation, amortization or other cost recovery deduction allowable with respect to an asset for such year or other period, except that if the Gross Asset Value of an asset differs from its adjusted basis for federal income tax purposes at the beginning of such year or period, Depreciation shall be in an amount that bears the same ratio to such beginning Gross Asset Value as the federal income tax depreciation, amortization or other cost recovery deduction for such year or other period bears to such beginning adjusted tax basis; provided, however, that if the federal income tax depreciation, amortization or other cost recovery deduction for such year or period is zero, Depreciation shall be determined with reference to such beginning Gross Asset Value using any reasonable method selected by the General Partner.

"Distributed Right" has the meaning set forth in the definition of "Adjustment Factor."

"ERISA" means the Employee Retirement Income Security Act of 1974, as amended.

"Exchange Act" means the Securities Exchange Act of 1934, as amended, and the rules and regulations promulgated thereunder.

"Family Members" means, as to a Person that is an individual, such Person's spouse, ancestors, descendants (whether by blood or by adoption), brothers and sisters and inter vivos or testamentary trusts of which only such Person and his spouse, ancestors, descendants (whether by blood or by adoption), brothers and sisters are beneficiaries.

"Funding Debt" means any Debt incurred by or on behalf of the Parent REIT for the purpose, in whole or in part, of providing funds to the Partnership.

"General Partner" means Arbor Realty GPOP, Inc., a Delaware corporation, and its successors and assigns, as the general partner of the Partnership in their capacities as general partner of the Partnership; provided, however, that as the context requires, references herein to the General Partner shall also mean the General Partner's corporate parent, the Parent REIT.

"General Partner Interest" means the Partnership Interest held by the General Partner, which Partnership Interest is an interest as a general partner under the Act. A General Partner Interest may be expressed as a number of Partnership Common Units, Partnership Preferred Units or any other Partnership Units.

"General Partner Loan" has the meaning set forth in Section 4.3.D hereof.

"Gross Asset Value" means, with respect to any asset, the asset's adjusted basis for federal income tax purposes, except as follows:

(a) The initial Gross Asset Value of any asset contributed by a Partner to the Partnership shall be the gross fair market value of such asset as determined by the General Partner and agreed to by the contributing Partner. In any case in which the General Partner and the contributing Partner are unable to agree as to the gross fair market value of any contributed asset or assets, such gross fair market value shall be determined by Appraisal.

(b) The Gross Asset Values of all Partnership assets immediately prior to the occurrence of any event described in clause (i), clause (ii), clause (iii), clause (iv) or clause (v) hereof shall be adjusted to equal their respective gross fair market values, as determined by the General Partner using such reasonable method of valuation as it may adopt, as of the following times:

(i) the acquisition of an additional interest in the Partnership (other than in connection with the execution of this Agreement but including, without limitation, acquisitions pursuant to Section 4.2 hereof or contributions or deemed contributions by the General Partner pursuant to Section 4.2 hereof) by a new or existing Partner in exchange for more than a de minimis Capital Contribution, if the General Partner reasonably determines that such adjustment is necessary or appropriate to reflect the relative economic interests of the Partners in the Partnership;

(ii) the distribution by the Partnership to a Partner of more than a de minimis amount of Property as consideration for an interest in the Partnership, if the General Partner reasonably determines that such adjustment is necessary or appropriate to reflect the relative economic interests of the Partners in the Partnership;

(iii) the liquidation of the Partnership within the meaning of Regulations Section 1.704-1(b)(2)(ii)(g);

(iv) upon the admission of a successor General Partner pursuant to Section 12.1 hereof; and

(v) at such other times as the General Partner shall reasonably determine necessary or advisable in order to comply with Regulations Sections 1.704-1(b) and 1.704-2.

(c) The Gross Asset Value of any Partnership asset

distributed to a Partner shall be the gross fair market value of such asset on the date of distribution as determined by the distributee and the General Partner provided that, if the distributee is the General Partner or if the distributee and the General Partner cannot agree on such a determination, such gross fair market value shall be determined by Appraisal.

(d) The Gross Asset Values of Partnership assets shall be increased (or decreased) to reflect any adjustments to the adjusted basis of such assets pursuant to Code Section 734(b) or Code Section 743(b), but only to the extent that such adjustments are taken into account in determining Capital Accounts pursuant to Regulations Section 1.704-1(b)(2)(iv)(m); provided, however, that Gross Asset Values shall not be adjusted pursuant to this subsection (d) to the extent that the General Partner reasonably determines that an adjustment pursuant to subsection (b) above is necessary or appropriate in connection with a transaction that would otherwise result in an adjustment pursuant to this subsection (d).

(e) If the Gross Asset Value of a Partnership asset has been determined or adjusted pursuant to subsection (a), subsection (b) or subsection (d) above, such Gross Asset Value shall thereafter be adjusted by the Depreciation taken into account with respect to such asset for purposes of computing Net Income and Net Losses.

"Holder" means either (a) a Partner or (b) an Assignee, owning a Partnership Unit, that is treated as a member of the Partnership for federal income tax purposes.

"Incapacity" or "Incapacitated" means, (i) as to any Partner who is an individual, death, total physical disability or entry by a court of competent jurisdiction adjudicating such Partner incompetent to manage his or her person or his or her estate; (ii) as to any Partner that is a corporation or limited liability company, the filing of a certificate of dissolution, or its equivalent, or the revocation of the corporation's charter; (iii) as to any Partner that is a partnership, the dissolution and commencement of winding up of the partnership; (iv) as to any Partner that is an estate, the distribution by the fiduciary of the estate's entire interest in the Partnership; (v) as to any trustee of a trust that is a Partner, the termination of the trust (but not the substitution of a new trustee); or (vi) as to any Partner, the bankruptcy of such Partner. For purposes of this definition, bankruptcy of a Partner shall be deemed to have occurred when (a) the Partner commences a voluntary proceeding seeking liquidation, reorganization or other relief of or against such Partner under any bankruptcy, insolvency or other similar law now or hereafter in effect, (b) the Partner is adjudged as bankrupt or insolvent, or a final and nonappealable order for relief under any bankruptcy, insolvency or similar law now or hereafter in effect has been entered against the Partner, (c) the Partner executes and delivers a general assignment for the benefit of the Partner's creditors, (d) the Partner files an answer or other pleading admitting or failing to contest the material allegations of a petition filed against the Partner in any proceeding of the nature described in clause (b) above, (e) the Partner seeks, consents to or acquiesces in the appointment of a trustee, receiver or liquidator for the Partner or for all or any substantial part of the Partner's properties, (f) any proceeding seeking liquidation, reorganization or other relief under any bankruptcy, insolvency or other similar law now or hereafter in effect has not been dismissed within one hundred twenty (120) days after the commencement thereof, (g) the appointment without the Partner's consent or acquiescence of a trustee, receiver or liquidator has not been vacated or stayed within ninety (90) days of such appointment, or (h) an appointment referred to in clause (g) above is not vacated within ninety (90) days after the expiration of any such stay.

"Indemnitee" means (i) any Person made a party to a proceeding by reason of its status as (A) the General Partner, (B) the Parent REIT or (C) a director of the General Partner or the Parent REIT or an officer or employee of the Partnership, the Parent REIT or the General Partner and (ii) such other Persons (including Affiliates of the General Partner or the Partnership) as the General Partner may designate from time to time (whether before or after the event giving rise to potential liability), in its sole and absolute discretion.

"Independent Director" shall have the meaning assigned to such term in the Charter, provided that if the Parent REIT has completed a Qualified Public Offering, the term "Independent Director" shall have the meaning assigned to such term under the rules and regulations of the principal national

securities exchange or interdealer quotation system on which the REIT Shares are then listed.

"Initial Limited Partner" means Arbor Realty LPOP, Inc., a Delaware corporation.

"Interest" means interest, original issue discount and other similar payments or amounts paid by the Partnership for the use or forbearance of money.

"IRS" means the Internal Revenue Service, which administers the internal revenue laws of the United States.

"Junior Share" means a share of capital stock of the Parent REIT now or hereafter authorized or reclassified that has dividend rights, or rights upon liquidation, winding up and dissolution, that are inferior or junior to the REIT Shares.

"Limited Partner" means any Person named as a Limited Partner in Exhibit A attached hereto, as such Exhibit A may be amended from time to time, or any Substituted Limited Partner or Additional Limited Partner, in such Person's capacity as a Limited Partner in the Partnership.

"Limited Partner Interest" means a Partnership Interest of a Limited Partner in the Partnership representing a fractional part of the Partnership Interests of all Limited Partners and includes any and all benefits to which the holder of such a Partnership Interest may be entitled as provided in this Agreement, together with all obligations of such Person to comply with the terms and provisions of this Agreement. A Limited Partner Interest may be expressed as a number of Partnership Common Units, Partnership Preferred Units or other Partnership Units.

"Liquidating Event" has the meaning set forth in Section 13.1 hereof.

"Liquidator" has the meaning set forth in Section 13.2.A hereof.

"Majority in Interest of the Limited Partners" means Limited Partners holding more than fifty percent (50%) of the outstanding Partnership Common Units held by all Limited Partners.

"Market Price" has the meaning set forth in the definition of "Value."

"Net Income" or "Net Loss" means, for each Partnership Year of the Partnership, an amount equal to the Partnership's taxable income or loss for such year, 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 Net Income (or Net Loss) pursuant to this definition of "Net Income" or "Net Loss" shall be added to (or subtracted from, as the case may be) such taxable income (or loss);

(b) Any expenditure of the Partnership described in Code Section 705(a)(2)(B) or treated as a Code Section 705(a)(2)(B) expenditure pursuant to Regulations Section 1.704-1(b)(2)(iv)(i), and not otherwise taken into account in computing Net Income (or Net Loss) pursuant to this definition of "Net Income" or "Net Loss," shall be subtracted from (or added to, as the case may be) such taxable income (or loss);

(c) In the event the Gross Asset Value of any Partnership asset is adjusted pursuant to subsection (b) or subsection (c) of the definition of "Gross Asset Value," the amount of such adjustment shall be taken into account as gain or loss from the disposition of such asset for purposes of computing Net Income or Net Loss;

(d) Gain or loss resulting from any disposition of

property with respect to which gain or loss is recognized for federal income tax purposes shall be computed by reference to the Gross Asset Value of the property disposed of, notwithstanding that the adjusted tax basis of such property differs from its Gross Asset Value;

(e) In lieu of the depreciation, amortization and other cost recovery deductions that would otherwise be taken into account in computing such taxable income or loss, there shall be taken into account Depreciation for such Partnership Year;

(f) To the extent that an adjustment to the adjusted tax basis of any Partnership asset pursuant to Code Section 734(b) or Code Section 743(b) is required pursuant to Regulations Section 1.704-1(b)(2)(iv)(m)(4) to be taken into account in determining Capital Accounts as a result of a distribution other than in liquidation of a Partner's interest in the Partnership, the amount of such adjustment shall 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) from the disposition of the asset and shall be taken into account for purposes of computing Net Income or Net Loss; and

(g) Notwithstanding any other provision of this definition of "Net Income" or "Net Loss," any item that is specially allocated pursuant to Section 6.3 hereof shall not be taken into account in computing Net Income or Net Loss. The amounts of the items of Partnership income, gain, loss or deduction available to be specially allocated pursuant to Section 6.3 hereof shall be determined by applying rules analogous to those set forth in this definition of "Net Income" or "Net Loss."

"New Securities" means (i) any rights, options, warrants or convertible or exchangeable securities having the right to subscribe for or purchase REIT Shares or Preferred Shares, excluding Preferred Shares, Junior Shares and grants under the Stock Option Plans, or (ii) any Debt issued by the General Partner that provides any of the rights described in clause (i).

"Nonrecourse Deductions" has the meaning set forth in Regulations Section 1.704-2(b)(1), and the amount of Nonrecourse Deductions for a Partnership Year shall be determined in accordance with the rules of Regulations Section 1.704-2(c).

"Nonrecourse Liability" has the meaning set forth in Regulations Section 1.752-1(a)(2).

"Notice of Redemption" means the Notice of Redemption substantially in the form of Exhibit C attached to this Agreement.

"Offering Funding" has the meaning set forth in Section 8.6.D(2) hereof.

"Offering Funding Amount" means the dollar amount equal to (i) the product of (x) the number of Offering Funding Shares sold in an Offering Funding and (y) the offering price per share of such Offering Funding Shares in such Offering Funding, less (ii) the aggregate underwriting discounts and commissions in such Offering Funding.

"Offering Funding Shares" has the meaning set forth in Section 8.6.D(2) hereof.

"Ownership Limit" means the applicable restriction or restrictions on ownership of shares of the Parent REIT imposed under the Charter.

"Paired Common Unit" has the meaning set forth in the Pairing Agreement.

"Pairing Agreement" means the Pairing Agreement by and among the Parent REIT, the General Partner, the Initial Limited Partner, the Partnership, and Arbor Commercial Mortgage, LLC, dated as of July 1, 2003.

"Parent REIT" means Arbor Realty Trust, Inc., a Maryland corporation that intends to be taxed as a REIT and is the corporate parent of the General Partner and the Initial Limited Partner.

"Partner" means the General Partner or a Limited Partner, and "Partners" means the General Partner and the Limited Partners.

"Partner Minimum Gain" means an amount, with respect to each Partner Nonrecourse Debt, equal to the Partnership Minimum Gain that would result if such Partner Nonrecourse Debt were treated as a Nonrecourse Liability, determined in accordance with Regulations Section 1.704-2(i)(3).

"Partner Nonrecourse Debt" has the meaning set forth in Regulations Section 1.704-2(b)(4).

"Partner Nonrecourse Deductions" has the meaning set forth in Regulations Section 1.704-2(i)(2), and the amount of Partner Nonrecourse Deductions with respect to a Partner Nonrecourse Debt for a Partnership Year shall be determined in accordance with the rules of Regulations Section 1.704-2(i)(2).

"Partnership" means the limited partnership formed under the Act and pursuant to this Agreement, and any successor thereto.

"Partnership Common Unit" means a fractional share of the Partnership Interests of all Partners issued pursuant to Sections 4.1 and 4.2 hereof, but does not include any Partnership Preferred Unit or any other Partnership Unit specified in a Partnership Unit Designation or this Agreement as being other than a Partnership Common Unit; provided, however, that the General Partner Interest and the Limited Partner Interests shall have the differences in rights and privileges as specified in this Agreement. The ownership of Partnership Common Units may (but need not, in the sole and absolute discretion of the General Partner) be evidenced by the form of certificate for Partnership Common Units attached hereto as Exhibit D.

"Partnership Interest" means an ownership interest in the Partnership held by either a Limited Partner or the General Partner and includes any and all benefits to which the holder of such a Partnership Interest may be entitled as provided in this Agreement, together with 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 Common Units, Partnership Preferred Units or other Partnership Units.

"Partnership Junior Unit" means a fractional share of the Partnership Interests that the General Partner has authorized pursuant to Section 4.1 or Section 4.2 or Section 4.3 hereof that has distribution rights, or rights upon liquidation, winding up and dissolution, that are inferior or junior to the Partnership Common Units.

"Partnership Minimum Gain" has the meaning set forth in Regulations Section 1.704-2(b)(2), and the amount of Partnership Minimum Gain, as well as any net increase or decrease in Partnership Minimum Gain, for a Partnership Year shall be determined in accordance with the rules of Regulations Section 1.704-2(d).

"Partnership Preferred Unit" means a fractional share of the Partnership Interests that the General Partner has authorized pursuant to Section 4.1, Section 4.2 or Section 4.3 hereof that has distribution rights, or rights upon liquidation, winding up and dissolution, that are superior or prior to the Partnership Common Units.

"Partnership Record Date" means a record date established by the General Partner for the distribution of Available Cash pursuant to Section 5.1 hereof, which record date shall generally be the same as the record date established by the General Partner for a distribution to its shareholders of some or all of its portion of such distribution.

"Partnership Unit" shall mean a Partnership Common Unit, a Partnership Preferred Unit, a Partnership Junior Unit or any other fractional share of the Partnership Interests that the General Partner has authorized pursuant to Section 4.1, Section 4.2 or Section 4.3 hereof.

"Partnership Unit Designation" shall have the meaning set forth in Section 4.2 hereof.

"Partnership Year" means the fiscal year of the Partnership, which shall be the calendar year.

"Percentage Interest" means, as to each Partner, its interest, if any, in the Partnership Common Units as determined by dividing the Partnership Common Units owned by such Partner by the total number of Partnership Common Units then outstanding as specified in Exhibit A attached hereto, as such Exhibit may be amended from time to time. To the extent that the Partnership issues more than one class or series of Partnership Interests, the interest of such class or series shall be determined as set forth in this Agreement or any amendment hereto.

"Person" means an individual or a corporation, partnership, trust, unincorporated organization, association, limited liability company or other entity.

"Preferred Share" means a share of capital stock of the Parent REIT now or hereafter authorized or reclassified that has dividend rights, or rights upon liquidation, winding up and dissolution, that are superior or prior to the REIT Shares.

"Primary Offering Notice" has the meaning set forth in Section 8.6.F(4) hereof.

"Properties" means any assets and property of the Partnership such as, but not limited to, interests in real property and personal property, including, without limitation, fee interests, interests in ground leases, interests in limited liability companies, joint ventures or partnerships, interests in mortgages, and Debt instruments as the Partnership may hold from time to time and "Property" shall mean any one such asset or property.

"Qualified Public Offering" means the sale in a public offering registered under the Securities Act of shares of common stock in which the REIT Shares are listed on a national securities exchange or interdealer quotation system.

"Qualified REIT Subsidiary" means a qualified REIT subsidiary of the Parent REIT within the meaning of Code Section 856(i)(2).

"Qualified Transferee" means an "accredited investor" as defined in Rule 501 promulgated under the Securities Act.

"Qualifying Party" means (a) a Limited Partner, (b) an Additional Limited Partner, or (c) a Substituted Limited Partner succeeding to all or part of a Limited Partner Interest of (i) a Limited Partner, or (ii) an Additional Limited Partner, in each case other than the Initial Limited Partner.

"Redemption" has the meaning set forth in Section 8.6.A hereof.

"Registration Rights Agreement" means the Registration Rights Agreement between Parent REIT and JMP Securities LLC, dated as of July 1, 2003.

"Regulations" means the applicable income tax regulations under the Code, whether such regulations are in proposed, temporary or final form, as such regulations may be amended from time to time (including corresponding provisions of succeeding regulations).

"Regulatory Allocations" has the meaning set forth in Section 6.3.B(viii) hereof.

"Restricted Partnership Common Units" has the meaning set forth in Section 4.12 hereof.

"REIT" means a real estate investment trust qualifying under Code Section 856.

"REIT Consideration" means the aggregate number of REIT Shares equal to the product of the REIT Shares Amount and the Applicable Percentage.

"REIT Partner" means (a) a Partner, including, without limitation, the General Partner, that is, or has made an election to qualify as,

a REIT, (b) any Qualified REIT Subsidiary of any Partner that is, or has made an election to qualify as, a REIT and (c) any Partner that is a Qualified REIT Subsidiary of a REIT.

"REIT Party" means the Parent REIT, the General Partner and/or the Initial Limited Partner.

"REIT Payment" has the meaning set forth in Section 15.11 hereof.

"REIT Requirements" means the requirements for qualification as a REIT under the Code and regulations, including, without limitation, the distribution requirements contained in Section 857(a) of the Code.

"REIT Share" means a share of the Parent REIT's Common Stock, par value $.01 per share. Where relevant in this Agreement, "REIT Shares" includes shares of the Parent REIT's Common Stock, par value $.01 per share, issued upon conversion of Preferred Shares or Junior Shares.

"REIT Shares Amount" means a number of REIT Shares equal to the product of (a) the number of Tendered Units and (b) the Adjustment Factor in effect on the Specified Redemption Date with respect to such Tendered Units; provided, however, that, in the event that the Parent REIT issues to all holders of REIT Shares as of a certain record date rights, options, warrants or convertible or exchangeable securities entitling the Parent REIT's shareholders to subscribe for or purchase REIT Shares, or any other securities or property (collectively, the "Rights"), with the record date for such Rights issuance falling within the period starting on the date of the Notice of Redemption and ending on the day immediately preceding the Specified Redemption Date, which Rights will not be distributed before the relevant Specified Redemption Date, then the REIT Shares Amount shall also include such Rights that a holder of that number of REIT Shares would be entitled to receive, expressed, where relevant hereunder, in a number of REIT Shares determined by the General Partner in good faith.

"Related Party" means, with respect to any Person, any other Person whose ownership of shares of the General Partner's capital stock would be attributed to the first such Person under Code Section 544 (as modified by Code Section 856(h)(1)(B)).

"Rights" has the meaning set forth in the definition of "REIT Shares Amount."

"SEC" means the Securities and Exchange Commission.

"Securities Act" means the Securities Act of 1933, as amended, and the rules and regulations promulgated thereunder.

"Services Agreement" means any management, development or advisory agreement with a property and/or asset manager for the provision of property management, asset management, leasing, development and/or similar services with respect to the Properties and any agreement for the provision of services of accountants, legal counsel, appraisers, insurers, brokers, transfer agents, registrars, developers, financial advisors and other professional services.

"Single Funding Notice" has the meaning set forth in Section 8.6.D(3) hereof.

"Special Voting Preferred Stock" means shares of Special Voting Preferred Stock, $0.01 par value per share, of Parent REIT, as designated by articles supplementary to the Charter and subject to the Pairing Agreement.

"Specified Redemption Date" means the later of (a) the tenth (10th) Business Day after the receipt by the General Partner of a Notice of Redemption or (b) in the case of a Declination followed by an Offering Funding, the Business Day next following the date of the closing of the Offering Funding; provided, however, that the Specified Redemption Date, as well as the closing of a Redemption, or an acquisition of Tendered Units by a REIT Party pursuant to Section 8.6.B hereof, on any Specified Redemption Date, may be

deferred, in the REIT Party's sole and absolute discretion, for such time (but

in any event not more than one hundred fifty (150) days in the aggregate) as may reasonably be required to effect, as applicable, (i) an Offering Funding or other necessary funding arrangements, (ii) compliance with the Securities Act or other law (including, but not limited to, (a) state "blue sky" or other securities laws and (b) the expiration or termination of the applicable waiting period, if any, under the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended) and (iii) satisfaction or waiver of other commercially reasonable and customary closing conditions and requirements for a transaction of such nature.

"Stock Option Plan" means any stock option plan hereafter adopted by the Partnership or the Parent REIT.

"Subsidiary" means, with respect to any Person, any other Person (which is not an individual) 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; provided, however, that, with respect to the Partnership, "Subsidiary" means solely a partnership or limited liability company (taxed, for federal income tax purposes, as a partnership and not as an association or publicly traded partnership taxable as a corporation) of which the Partnership is a partner or member, as applicable, unless the General Partner has received an unqualified opinion from independent counsel of recognized standing, or a ruling from the IRS, that the ownership of shares of stock of a corporation or other entity will not jeopardize the Parent REIT's status as a REIT, in which event the term "Subsidiary" shall include the corporation or other entity which is the subject of such opinion or ruling.

"Substituted Limited Partner" means a Person who is admitted as a Limited Partner to the Partnership pursuant to Section 11.4 hereof.

"Tax Items" has the meaning set forth in Section 6.4.A hereof.

"Tendered Units" has the meaning set forth in Section 8.6.A hereof.

"Tendering Party" has the meaning set forth in Section 8.6.A hereof.

"Terminating Capital Transaction" means any sale or other disposition of all or substantially all of the assets of the Partnership or a related series of transactions that, taken together, result in the sale or other disposition of all or substantially all of the assets of the Partnership.

"Transfer," when used with respect to a Partnership Unit, or all or any portion of a Partnership Interest, means any sale, assignment, bequest, conveyance, devise, gift (outright or in trust), pledge, encumbrance, hypothecation, mortgage, exchange, transfer or other disposition or act of alienation, whether voluntary or involuntary or by operation of law; provided, however, that when the term is used in Article 11 hereof, "Transfer" does not include (a) any Redemption of Partnership Common Units by the Partnership, or acquisition of Tendered Units by a REIT Party, pursuant to Section 8.6 hereof or (b) any redemption of Partnership Units pursuant to any Partnership Unit Designation. The terms "Transferred" and "Transferring" have correlative meanings.

"Unitholder" means the General Partner or any Holder of Partnership Units.

"Value" means, on any date of determination with respect to a REIT Share, the average of the daily Market Prices for ten (10) consecutive trading days immediately preceding the date of determination except that, as provided in Section 4.4.B. hereof, the Market Price for the trading day immediately preceding the date of exercise of a stock option under any Stock Option Plans shall be substituted for such average of daily market prices for purposes of Section 4.4 hereof; provided, however, that for purposes of Section 8.6, the "date of determination" shall be the date of receipt by the General Partner of a Notice of Redemption or, if such date is not a Business Day, the immediately preceding Business Day. The term "Market Price" on any date shall mean, with respect to any class or series of outstanding REIT Shares, the Closing Price for such REIT Shares on such date. The "Closing Price" on any date shall mean the last sale price for such REIT Shares, regular way, or, in case no such sale takes place on such day, the average of the closing bid and asked prices, regular way, for such REIT Shares, in either case as reported in the principal consolidated transaction reporting system with

respect to securities listed or admitted to trading on the New York Stock Exchange or, if such REIT Shares are not listed or admitted to trading on the New York Stock Exchange, as reported on the principal consolidated transaction reporting system with respect to securities listed on the principal national securities exchange on which such REIT Shares are listed or admitted to trading or, if such REIT Shares are not listed or admitted to trading on any national securities exchange, the last quoted price, or, if not so quoted, the average of the high bid and low asked prices in the over-the-counter market, as reported by the National Association of Securities Dealers, Inc. Automated Quotation System or, if such system is no longer in use, the principal other automated quotation system that may then be in use or, if such REIT Shares are not quoted by any such organization, the average of the closing bid and asked prices as furnished by a professional market maker making a market in such REIT Shares selected by the Board of Directors of the General Partner or, in the event that no trading price is available for such REIT Shares, the fair market value of the REIT Shares, as determined in good faith by the Board of Directors of the General Partner.

In the event that the REIT Shares Amount includes Rights (as defined in the definition of "REIT Shares Amount") that a holder of REIT Shares would be entitled to receive, then the Value of such Rights shall be determined by the General Partner acting in good faith on the basis of such quotations and other information as it considers, in its reasonable judgment, appropriate.

"Warrants" mean warrants to purchase additional Partnership Common Units pursuant to the Warrant Agreement.

"Warrant Agreement" means the Warrant Agreement between the Partnership, the Parent REIT, and Arbor Commercial Mortgage, LLC, dated as of July 1, 2003.

ARTICLE II
ORGANIZATIONAL MATTERS

Section 2.1 Organization. The Partnership is a limited partnership organized pursuant to the provisions of the Act and upon the terms and subject to the conditions set forth in this Agreement. Except as expressly provided herein to the contrary, the rights and obligations of the Partners and the administration and termination of the Partnership shall be governed by the Act. The Partnership Interest of each Partner shall be personal property for all purposes.

Section 2.2 Name. The name of the Partnership is "ARBOR REALTY LIMITED PARTNERSHIP." The Partnership's business may be conducted under any other name or names deemed advisable by the General Partner, including the name of the General Partner or any Affiliate thereof. The words "Limited Partnership," "LP," "L.P.," "Ltd." or similar words or letters shall be included in the Partnership's name where necessary for the purposes of complying with the laws of any jurisdiction that so requires. The General Partner in its sole and absolute discretion may change the name of the Partnership at any time and from time to time and shall notify the Partners of such change in the next regular communication to the Partners.

Section 2.3 Registered Office and Agent; Principal Office. The address of the registered office of the Partnership in the State of Delaware is located at 1209 Orange Street, Wilmington, Delaware, 19801, and the registered agent for service of process on the Partnership in the State of Delaware at such registered office is The Corporation Trust Company. The principal office of the Partnership is located at 333 Earle Ovington Blvd., Suite 900, Uniondale, NY 11553, or such other place as the General Partner may from time to time designate by notice to the Limited Partners. The Partnership may maintain offices at such other place or places within or outside the State of Delaware as the General Partner deems advisable.

Section 2.4 Power of Attorney.

A. Each Limited Partner and each Assignee hereby irrevocably constitutes and appoints the General Partner, any Liquidator, and authorized officers and attorneys-in-fact of each, and each of those acting singly, in each case with full power of substitution, as its true and lawful agent and attorney-in-fact, with full power and authority in its name, place and stead to:

(1) execute, swear to, seal, acknowledge, deliver, file and record in the appropriate public offices (a) all certificates, documents and other instruments (including, without limitation, this Agreement and the Certificate and all amendments, supplements or restatements thereof) that the General Partner or the Liquidator deems appropriate or necessary to form, qualify or continue the existence or qualification of the Partnership as a limited partnership (or a partnership in which the limited partners have limited liability to the extent provided by applicable law) in the State of Delaware and in all other jurisdictions in which the Partnership may conduct business or own property; (b) all instruments that the General Partner or the Liquidator deems appropriate or necessary to reflect any amendment, change, modification or restatement of this Agreement in accordance with its terms; (c) all conveyances and other instruments or documents that the General Partner or the Liquidator deems appropriate or necessary to reflect the dissolution and liquidation of the Partnership pursuant to the terms of this Agreement, including, without limitation, a certificate of cancellation; (d) all conveyances and other instruments or documents that the General Partner or the Liquidator deems appropriate or necessary to reflect the distribution or exchange of assets of the Partnership pursuant to the terms of this Agreement; (e) all instruments relating to the admission, withdrawal, removal or substitution of any Partner pursuant to, or other events described in, Article 11, Article 12 or Article 13 hereof or the Capital Contribution of any Partner; and (f) all certificates, documents and other instruments relating to the determination of the rights, preferences and privileges relating to Partnership Interests; and

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

Nothing contained herein shall be construed as authorizing the General Partner or the Liquidator to amend this Agreement except in accordance with Article 14 hereof or as may be otherwise expressly provided for in this Agreement.

B. The foregoing power of attorney is hereby declared to be irrevocable and a special power coupled with an interest, in recognition of the fact that each of the Limited Partners and Assignees will be relying upon the power of the General Partner or the Liquidator to act as contemplated by this Agreement in any filing or other action by it on behalf of the Partnership, and it shall survive and not be affected by the subsequent Incapacity of any Limited Partner or Assignee and the Transfer of all or any portion of such Limited Partner's or Assignee's Partnership Units or Partnership Interest and shall extend to such Limited Partner's or Assignee's heirs, successors, assigns and personal representatives. Each such Limited Partner or Assignee hereby agrees to be bound by any representation made by the General Partner or the Liquidator, acting in good faith pursuant to such power of attorney; and each such Limited Partner or Assignee hereby waives any and all defenses that may be available to contest, negate or disaffirm the action of the General Partner or the Liquidator, taken in good faith under such power of attorney. Each Limited Partner or Assignee shall execute and deliver to the General Partner or the Liquidator, within fifteen (15) days after receipt of the General Partner's or the Liquidator's request therefor, such further designation, powers of attorney and other instruments as the General Partner or the Liquidator, as the case may be, deems necessary to effectuate this Agreement and the purposes of the Partnership.

Section 2.5 Term. Pursuant to Section 17-217(d) of the Act, the term of the Partnership commenced on June 24, 2003 and shall continue until the Partnership is dissolved pursuant to the provisions of Article 13 hereof or as otherwise provided by law.

ARTICLE III
PURPOSE

Section 3.1 Purpose and Business. The purpose and nature of the Partnership is to conduct any business, enterprise or activity permitted by or under the Act; provided, however, such business and arrangements and interests may be limited to and conducted in such a manner as to permit the Parent REIT, in the sole and absolute discretion of the General Partner, at all times to be classified as a REIT. In connection with the foregoing, the Partnership shall have full power and authority to enter into, perform and carry out contracts of any kind, to borrow and lend money and to issue and guarantee evidence of indebtedness, whether or not secured by mortgage, deed of trust, pledge or other lien and, directly or indirectly, to acquire and construct additional Properties necessary, useful or desirable in connection with its business.

Section 3.2 Powers.

A. The Partnership shall be empowered to do any and all acts and things necessary, appropriate, proper, advisable, incidental to or convenient for the furtherance and accomplishment of the purposes and business described herein and for the protection and benefit of the Partnership.

B. The Partnership may contribute from time to time Partnership capital to one or more newly formed entities solely in exchange for equity interests therein (or in a wholly-owned subsidiary entity thereof).

C. Notwithstanding any other provision in this Agreement, the General Partner may cause the Partnership not to take, or to refrain from taking, any action that, in the judgment of the General Partner, in its sole and absolute discretion, (i) could adversely affect the ability of the Parent REIT to continue to qualify as a REIT, (ii) could subject the Parent REIT to any additional taxes under Code Section 857 or Code Section 4981 or any other related or successor provision of the Code, or (iii) could violate any law or regulation of any governmental body or agency having jurisdiction over Parent REIT or the General Partner, their securities or the Partnership.

Section 3.3 Partnership Only for Partnership Purposes. This Agreement shall not be deemed to create a company, venture or partnership between or among the Partners with respect to any activities whatsoever other than the activities within the purposes of the Partnership as specified in Section 3.1 hereof. Except as otherwise provided in this Agreement, no Partner shall have any authority to act for, bind, commit or assume any obligation or responsibility on behalf of the Partnership, its properties or any other Partner. No Partner, in its capacity as a Partner under this Agreement, shall be responsible or liable for any indebtedness or obligation of another Partner, and the Partnership shall not be responsible or liable for any indebtedness or obligation of any Partner, incurred either before or after the execution and delivery of this Agreement by such Partner, except as to those responsibilities, liabilities, indebtedness or obligations incurred pursuant to and as limited by the terms of this Agreement and the Act.

Section 3.4 Representations and Warranties by the Parties.

A. Each Partner (including, without limitation, each Additional Limited Partner or Substituted Limited Partner as a condition to becoming an Additional Limited Partner or a Substituted Limited Partner, respectively) that is an individual represents and warrants to each other Partner that (i) the consummation of the transactions contemplated by this Agreement to be performed by such Partner will not result in a breach or violation of, or a default under, any material agreement by which such Partner or any of such Partner's property is bound, or any statute, regulation, order or other law to which such Partner is subject, (ii) subject to the last sentence of this Section 3.4.A, such Partner is neither a "foreign person" within the meaning of Code Section 1445(f) nor a "foreign partner" within the meaning of Code Section 1446(e), (iii) such Partner does not own, directly or indirectly, (a) nine and nine tenths percent (9.9%) or more of the total combined voting power of all classes of stock entitled to vote, or nine and nine tenths percent (9.9%) or more of the total number of shares of all classes of stock, of any corporation that is a tenant of either (I) the Parent REIT, the General Partner or any Qualified REIT Subsidiary, (II) the Partnership or (III) any partnership, venture or limited liability company of which the Parent REIT, the General

Partner, any Qualified REIT Subsidiary or the Partnership is a member or (b) an interest of nine and nine tenths percent (9.9%) or more in the assets or net profits of any tenant of either (I) the Parent REIT, the General Partner or any Qualified REIT Subsidiary, (II) the Partnership or (III) any partnership, venture, or limited liability company of which the Parent REIT, the General Partner, any Qualified REIT Subsidiary or the Partnership is a member and (iv) this Agreement is binding upon, and enforceable against, such Partner in accordance with its terms. Notwithstanding anything

contained herein to the contrary, in the event that the representation contained in the foregoing clause (ii) would be inaccurate if given by a Partner, such Partner (w) shall not be required to make and shall not be deemed to have made such representation, if it delivers to the General Partner in connection with or prior to its execution of this Agreement written notice that it may not truthfully make such representation, (x) hereby agrees that it is subject to, and hereby authorizes the General Partner to withhold, all withholdings to which such a "foreign person" or "foreign partner", as applicable, is subject under the Code and (y) hereby agrees to cooperate fully with the General Partner with respect to such withholdings, including by effecting the timely completion and delivery to the General Partner of all governmental forms required in connection therewith.

B. Each Partner (including, without limitation, each Additional Limited Partner or Substituted Limited Partner as a condition to becoming an Additional Limited Partner or a Substituted Limited Partner, respectively) that is not an individual represents and warrants to each other Partner(s) that (i) all transactions contemplated by this Agreement to be performed by it have been duly authorized by all necessary action, including, without limitation, that of its general partner(s), committee(s), trustee(s), beneficiaries, directors and/or shareholder(s), as the case may be, as required, (ii) the consummation of such transactions shall not result in a breach or violation of, or a default under, its partnership or operating agreement, trust agreement, articles, charter or bylaws, as the case may be, any material agreement by which such Partner or any of such Partner's properties or any of its partners, members, beneficiaries, trustees or shareholders, as the case may be, is or are bound, or any statute, regulation, order or other law to which such Partner or any of its partners, members, trustees, beneficiaries or shareholders, as the case may be, is or are subject, (iii) subject to the last sentence of this Section 3.4.B, such Partner is neither a "foreign person" within the meaning of Code Section 1445(f) nor a "foreign partner" within the meaning of Code Section 1446(e), (iv) such Partner does not own, directly or indirectly, (a) nine and nine tenths percent (9.9%) or more of the total combined voting power of all classes of stock entitled to vote, or nine and eight nine percent (9.9%) or more of the total number of shares of all classes of stock, of any corporation that is a tenant of either (I) the Parent REIT, the General Partner or any Qualified REIT Subsidiary, (II) the Partnership or (III) any partnership, venture or limited liability company of which the Parent REIT, the General Partner, any Qualified REIT Subsidiary or the Partnership is a member or (b) an interest of nine and nine tenths percent (9.9%) or more in the assets or net profits of any tenant of either (I) the Parent REIT, the General Partner or any Qualified REIT Subsidiary, (II) the Partnership or (III) any partnership, venture or limited liability company for which the Parent REIT, the General Partner, any Qualified REIT Subsidiary or the Partnership is a member and (v) this Agreement is binding upon, and enforceable against, such Partner in accordance with its terms. Notwithstanding anything contained herein to the contrary, in the event that the representation contained in the foregoing clause (iii) would be inaccurate if given by a Partner, such Partner (w) shall not be required to make and shall not be deemed to have made such representation, if it delivers to the General Partner in connection with or prior to its execution of this Agreement written notice that it may not truthfully make such representation, (x) hereby agrees that it is subject to, and hereby authorizes the General Partner to withhold, all withholdings to which such a "foreign person" or "foreign partner", as applicable, is subject under the Code and (y) hereby agrees to cooperate fully with the General Partner with respect to such withholdings, including by effecting the timely completion and delivery to the General Partner of all internal revenue forms required in connection therewith.

C. Each Partner (including, without limitation, each Substituted Limited Partner as a condition to becoming a Substituted Limited Partner) represents, warrants and agrees that it has acquired and continues to hold its interest in the Partnership for its own account for investment purposes only and not for the purpose of, or with a view toward, the resale or

distribution of all or any part thereof, and not with a view toward selling or otherwise distributing such interest or any part thereof at any particular time or under any predetermined circumstances. Each Partner further represents and warrants that it is a sophisticated investor, able and accustomed to handling sophisticated financial matters for itself, particularly real estate investments, and that it has a sufficiently high net worth that it does not anticipate a need for the funds that it has invested in the Partnership in what it understands to be a highly speculative and illiquid investment.

D. The representations and warranties contained in Sections 3.4.A, 3.4.B and 3.4.C hereof shall survive the execution and delivery of this Agreement by each Partner (and, in the case of an Additional Limited Partner or a Substituted Limited Partner, the admission of such Additional Limited Partner or Substituted Limited Partner as a Limited Partner in the Partnership) and the dissolution, liquidation and termination of the Partnership.

E. Each Partner (including, without limitation, each Substituted Limited Partner as a condition to becoming a Substituted Limited Partner) hereby acknowledges that no representations as to potential profit, cash flows, funds from operations or yield, if any, in respect of the Partnership or the Parent REIT have been made by any Partner or any employee or representative or Affiliate of any Partner, and that projections and any other information, including, without limitation, financial and descriptive information and documentation, that may have been in any manner submitted to such Partner shall not constitute any representation or warranty of any kind or nature, express or implied.

ARTICLE IV
CAPITAL CONTRIBUTIONS

Section 4.1 Capital Contributions of the Partners. The Partners have made Capital Contributions to the Partnership and own Partnership Units in the amount set forth for such Partner on Exhibit A, as the same may be amended from time to time by the General Partner to the extent necessary to reflect accurately sales, exchanges or other Transfers, redemptions, Capital Contributions, the issuance of additional Partnership Units, or similar events having an effect on a Partner's ownership of Partnership Units. Except as provided by law or in Sections 4.2, 4.3, 4.10 or 10.4 hereof, the Partners shall have no obligation or right to make any additional Capital Contributions or loans to the Partnership.

Section 4.2 Issuances of Additional Partnership Interests.

A. General. The General Partner is hereby authorized to cause the Partnership to issue additional Partnership Interests, in the form of Partnership Units, for any Partnership purpose, at any time or from time to time, to the Partners (including the General Partner) or to other Persons, and to admit such Persons as Additional Limited Partners, for such consideration and on such terms and conditions as shall be established by the General Partner in its sole and absolute discretion, all without the approval of any Limited Partners. Without limiting the foregoing, the General Partner is expressly authorized to cause the Partnership to issue Partnership Units (i) upon the conversion, redemption or exchange of any Debt, Partnership Units or other securities issued by the Partnership, (ii) for less than fair market value, so long as the General Partner concludes in good faith that such issuance is in the best interests of the General Partner and the Partnership, and (iii) in connection with any merger of any other Person into the Partnership or any Subsidiary of the Partnership if the applicable merger agreement provides that Persons are to receive Partnership Units in exchange for their interests in the Person merging into the Partnership or any Subsidiary of the Partnership. Subject to Delaware law, any additional Partnership Interests may be issued in one or more classes, or one or more series of any of such classes, with such designations, preferences and relative, participating, optional or other special rights, powers and duties as shall be determined by the General Partner, in its sole and absolute discretion without the approval of any Limited Partner, and set forth in this Agreement or a written document thereafter attached to and made an exhibit to this Agreement (each, a "Partnership Unit Designation"). Without limiting the generality of the foregoing, the General Partner shall have authority to specify (a) the allocations of items of Partnership income, gain, loss, deduction and credit to each such class or series of Partnership Interests; (b) the right of each such class or series of Partnership Interests

to share in Partnership distributions; (c) the rights of each such class or series of Partnership Interests upon dissolution and liquidation of the Partnership; (d) the voting rights, if any, of each such class or series of Partnership Interests; and (e) the conversion, redemption or exchange rights applicable to each such class or series of Partnership Interests. Upon the issuance of any additional Partnership Interest, the General Partner shall amend Exhibit A as appropriate to reflect such issuance.

B. Issuances to the General Partner. No additional Partnership Units shall be issued to the General Partner or the Initial Limited Partner unless (i) the additional Partnership Units are issued to all Partners in proportion to their respective Percentage Interests with respect to the class of Partnership Units so issued, (ii) (a) the additional Partnership Units are (x) Partnership Common Units issued in connection with an issuance of REIT Shares, or (y) Partnership Units (other than Partnership Common Units) issued in connection with an issuance, conversion or exercise of Preferred Shares, New Securities or other interests in the Parent REIT (other than REIT Shares), which Preferred Shares, New Securities or other interests have designations, preferences and other rights, terms and provisions that are substantially the same as the designations,

preferences and other rights, terms and provisions of the additional Partnership Units issued to the General Partner or the Initial Limited Partner, and (b) the Parent REIT contributes or otherwise causes to be transferred to the Partnership the cash proceeds or other consideration received in connection with the issuance of such REIT Shares, Preferred Shares, New Securities or other interests in the Parent REIT, (iii) the additional Partnership Units are issued upon the conversion, redemption or exchange of Debt, Partnership Units or other securities issued by the Partnership, or (iv) the additional Partnership Units are issued pursuant to Sections 4.3B, 4.4, 4.6 or Section 4.7.

C. No Preemptive Rights. No Person, including, without limitation, any Partner or Assignee, shall have any preemptive, preferential, participation or similar right or rights to subscribe for or acquire any Partnership Interest.

Section 4.3 Additional Funds and Capital Contributions.

A. General. The General Partner may, at any time and from time to time, determine that the Partnership requires additional funds ("Additional Funds") for the acquisition or development of additional Properties, for the redemption of Partnership Units or for such other purposes as the General Partner may determine in its sole and absolute discretion. Additional Funds may be obtained by the Partnership, at the election of the General Partner, in any manner provided in, and in accordance with, the terms of this Section 4.3 without the approval of any Limited Partners.

B. Additional Capital Contributions. The General Partner, on behalf of the Partnership, may obtain any Additional Funds by accepting Capital Contributions from any Partners or other Persons. In connection with any such Capital Contribution (of cash or property), the General Partner is hereby authorized to cause the Partnership from time to time to issue additional Partnership Units (as set forth in Section 4.2 above) in consideration therefor and the Percentage Interests of the General Partner and the Limited Partners shall be adjusted to reflect the issuance of such additional Partnership Units.

C. Loans by Third Parties. The General Partner, on behalf of the Partnership, may obtain any Additional Funds by causing the Partnership to incur Debt to any Person upon such terms as the General Partner determines appropriate, including making such Debt convertible, redeemable or exchangeable for Partnership Units; provided, however, that the Partnership shall not incur any such Debt if (i) a breach, violation or default of such Debt would be deemed to occur by virtue of the Transfer by any Limited Partner of any Partnership Interest, or (ii) such Debt is recourse to any Partner (unless the Partner otherwise agrees).

D. General Partner Loans. The General Partner, on behalf of the Partnership, may obtain any Additional Funds by causing the Partnership to incur Debt with the General Partner or the Parent REIT (each, a "General Partner Loan") if (i) such Debt is, to the extent permitted by law, on substantially the same terms and conditions (including interest rate, repayment

schedule, and conversion, redemption, repurchase and exchange rights) as Funding Debt incurred by the General Partner or the Parent REIT, the net proceeds of which are lent to the Partnership to provide such Additional Funds, or (ii) such Debt is on terms and conditions no less favorable to the Partnership than would be available to the Partnership from any third party; provided, however, that the Partnership shall not incur any such Debt if (a) a breach, violation or default of such Debt would be deemed to occur by virtue of the Transfer by any Limited Partner of any Partnership Interest, or (b) such Debt is recourse to any Partner (unless the Partner otherwise agrees).

E. Issuance of Securities by the Parent REIT.

(1) The Parent REIT shall contribute the cash proceeds or other consideration received from any issuances, since the formation of the Partnership, of REIT Shares, Preferred Shares, Junior Shares or New Securities, as the case may be, and from the exercise of the rights contained in any such additional New Securities, to the General Partner or the Initial Limited Partner and the General Partner or the Initial Limited Partner, as the case may be, shall contribute such proceeds to the Partnership in exchange for (x) in the case of an issuance of REIT Shares, Partnership Common Units, or (y) in the case of an issuance of Preferred Shares, Junior Shares or

New Securities, Partnership Units with designations, preferences and other rights, terms and provisions that are substantially the same as the designations, preferences and other rights, terms and provisions of such Preferred Shares, Junior Shares or New Securities.

(2) The General Partner and the Initial Limited Partner shall contribute any cash or other consideration that each have received from the Parent REIT, since the formation of the Partnership, to the Partnership in exchange for Partnership Common Units.

(3) The Parent REIT shall not issue any additional REIT Shares, Preferred Shares, Junior Shares or New Securities unless the Parent REIT contributes the cash proceeds or other consideration received from the issuance of such additional REIT Shares, Preferred Shares, Junior Shares or New Securities, as the case may be, and from the exercise of the rights contained in any such additional New Securities, to the General Partner or the Initial Limited Partner and the General Partner or the Initial Limited Partner, as the case may be, shall contribute such proceeds to the Partnership in exchange for (x) in the case of an issuance of REIT Shares, Partnership Common Units, or (y) in the case of an issuance of Preferred Shares, Junior Shares or New Securities, Partnership Units with designations, preferences and other rights, terms and provisions that are substantially the same as the designations, preferences and other rights, terms and provisions of such Preferred Shares, Junior Shares or New Securities; provided, however, that notwithstanding the foregoing, the General Partner may issue REIT Shares, Preferred Shares, Junior Shares or New Securities (a) pursuant to Section 4.4 or Section 8.6.B hereof, (b) pursuant to a dividend or distribution (including any stock split) of REIT Shares, Preferred Shares, Junior Shares or New Securities to all of the holders of REIT Shares, Preferred Shares, Junior Shares or New Securities, as the case may be, (c) upon a conversion, redemption or exchange of Preferred Shares, (d) upon a conversion of Junior Shares into REIT Shares, (e) upon a conversion, redemption, exchange or exercise of New Securities, or (f) in connection with an acquisition of a property or other asset to be owned, directly or indirectly, by the General Partner if the General Partner determines that such acquisition is in the best interests of the Partnership. In the event of any issuance of additional REIT Shares, Preferred Shares, Junior Shares or New Securities by the Parent REIT, and the contribution to the General Partner or the Initial Limited Partner of the cash proceeds or other consideration received from such issuance, and the contribution to the Partnership, by the General Partner or the Initial Limited Partner, as the case may be, of such proceeds, the Partnership shall pay the Parent REIT's expenses associated with such issuance, including any underwriting discounts or commissions (it being understood that payment of some or all of such

expenses may be made by the Parent REIT on behalf of the Partnership out of the gross proceeds of such issuance prior to the contribution of such proceeds by the Parent REIT to the General Partner or the Initial Limited Partner, as the case may be).

Section 4.4 Stock Option Plan.

A. Options Granted to Company Employees and Independent Directors. If at any time or from time to time, in connection with a Stock Option Plan, a stock option granted to a Company Employee or an Independent Director is duly exercised:

(1) the General Partner shall, as soon as practicable after such exercise, make a Capital Contribution to the Partnership in an amount equal to the exercise price paid to the General Partner (or the Parent REIT) by such exercising party in connection with the exercise of such stock option.

(2) on the date that the General Partner makes a capital contribution pursuant to 4.4.A(1) hereof, the General Partner shall be deemed to have contributed to the Partnership as a Capital Contribution, in consideration of an additional

Limited Partner Interest (expressed in and as additional Partnership Common Units), an amount equal to the Value of a REIT Share as of the date of exercise multiplied by the number of REIT Shares then being issued in connection with the exercise of such stock option.

(3) An equitable Percentage Interest adjustment shall be made in which the General Partner shall be treated as having made a cash contribution equal to the amount described in Section 4.4.A(2) hereof.

B. Special Valuation Rule. For purposes of this Section 4.4, in determining the Value of a REIT Share, only the trading date immediately preceding the exercise of the relevant stock option under the Stock Option Plan shall be considered.

C. Future Stock Incentive Plans. Nothing in this Agreement shall be construed or applied to preclude or restrain the General Partner or the Parent REIT from adopting, modifying or terminating stock incentive plans, including any Stock Option Plan, for the benefit of employees, directors or other business associates of the General Partner, the Parent REIT, the Partnership or any of their Affiliates. The Limited Partners acknowledge and agree that, in the event that any such plan is adopted, modified or terminated by the General Partner or Parent REIT amendments to this Section 4.4 may become necessary or advisable and that any approval or consent of the Limited Partners required pursuant to the terms of this Agreement in order to effect any such amendments requested by the General Partner shall not be unreasonably withheld or delayed.

Section 4.5 No Interest; No Return. No Partner shall be entitled to interest on its Capital Contribution or on such Partner's Capital Account. Except as provided herein or by law, no Partner shall have any right to demand or receive the return of its Capital Contribution from the Partnership.

Section 4.6 Conversion or Redemption of Preferred Shares.

A. Conversion of Preferred Shares. If, at any time, any of the Preferred Shares are converted into REIT Shares, in whole or in part, then a number of Partnership Preferred Units equal to the number of Preferred Shares so converted shall automatically be converted into a number of Partnership Common Units equal to (i) the number of REIT Shares issued upon such conversion divided by (ii) the Adjustment Factor then in effect, and the Percentage Interests of the General Partner and the Limited Partners shall be adjusted to reflect such conversion.

B. Redemption of Preferred Shares. If, at any time, any Preferred Shares are redeemed (whether by exercise of a put or call, automatically or by means of another arrangement) by the General Partner for cash, the Partnership shall, immediately prior to such redemption of Preferred Shares, redeem an equal number of Partnership Preferred Units held by the

General Partner, upon the same terms and for the same price per Partnership Preferred Unit, as such Preferred Shares are redeemed.

Section 4.7 Conversion or Redemption of Junior Shares.

A. Conversion of Junior Shares. If, at any time, any of the Junior Shares are converted into REIT Shares, in whole or in part, then a number of Partnership Common Units equal to (i) the number of REIT Shares issued upon such conversion divided by (ii) the Adjustment Factor then in effect shall be issued to the General Partner, and the Percentage Interests of the General Partner and the Limited Partners shall be adjusted to reflect such conversion.

B. Redemption of Junior Shares. If, at any time, any Junior Shares are redeemed (whether by exercise of a put or call, automatically or by means of another arrangement) by the General Partner for cash, the Partnership shall, immediately prior to such redemption of Junior Shares, redeem an equal number of Partnership Junior Units held by the General Partner, upon the same terms and for the same price per Partnership Junior Unit, as such Junior Shares are redeemed.

Section 4.8 Other Contribution Provisions. In the event that any Partner is admitted to the Partnership and is given a Capital Account in exchange for services rendered to the Partnership, unless otherwise determined by the General Partner in its sole and absolute discretion, such transaction shall be treated by the Partnership and the affected Partner as if the Partnership had compensated such partner in cash and such Partner had contributed the cash to the capital of the Partnership. In addition, with the consent of the General Partner, one or more Limited Partners may enter into contribution agreements with the Partnership which have the effect of providing a guarantee of certain obligations of the Partnership.

Section 4.9 Not Publicly Traded. The General Partner, on behalf of the Partnership, shall use its best efforts not to take any action which would result in the Partnership being a "publicly traded partnership" under and as such term is defined in Section 7704(b) of the Code.

Section 4.10 Warrants. Warrants to purchase additional Partnership Common Units shall be issued in the amounts and pursuant to the terms of the Warrant Agreement. Partnership Common Units shall be issued upon the exercise of the Warrants in accordance with the Warrant Agreement.

Section 4.11 Class A Preferred Units. In accordance with Section 4.3E, the Parent REIT shall contribute the proceeds of the issuance of shares of Special Voting Preferred Stock to the Initial Limited Partner. The Initial Limited Partner shall contribute such proceeds to the Partnership in exchange for a number of Class A Preferred Units equal to the number of shares of Special Voting Preferred Stock issued by the Parent REIT. The holder of each Class A Preferred Unit shall receive a Capital Account, and be entitled to a preferential distribution in liquidation, of $.01 per Class A Preferred Unit. Ownership of a Class A Preferred Unit shall not entitle the holder thereof to any allocation of profits or losses of the Partnership. To the extent that shares of Special Voting Preferred Stock are redeemed by the Parent REIT, a like number of Class A Preferred Units shall have been first redeemed by the Partnership for the same price per Class A Preferred Unit and in accordance with the terms of the Pairing Agreement. Except as otherwise provided herein or required by law, the ownership of a Class A Preferred Unit shall not entitle the holder thereof to any voting rights hereunder. The Class A Preferred Units shall be owned and held solely by the Initial Limited Partner.

Section 4.12 Restricted Units.In accordance with Section 4.3E, to the extent the Parent REIT issues shares of restricted common stock pursuant to a stock incentive plan, the Partnership shall issue to the Initial Limited Partner an equal number of Partnership Common Units that are subject to a similar vesting schedule, forfeiture provisions and other terms and conditions that correspond to those of the restricted common stock ("Restricted Partnership Common Units").

ARTICLE V
DISTRIBUTIONS

Section 5.1 Requirement and Characterization of Distributions. Subject to the terms of any Partnership Unit Designation, the General Partner

shall cause the Partnership to distribute quarterly all, or such portion as the General Partner may in its sole and absolute discretion determine, of Available Cash generated by the Partnership during such quarter to the Holders of Partnership Units on such Partnership Record Date with respect to such quarter: (i) first, with respect to any Partnership Interests that are entitled to any preference in distribution, in accordance with the rights of such class(es) of Partnership Interests (and, within such class(es), pro rata in proportion to the respective Percentage Interests on such Partnership Record Date), and (ii) second, with respect to any Partnership Interests that are not entitled to any preference in distribution, in accordance with the rights of such class of Partnership Interests (and, within such class, pro rata in proportion to the respective Percentage Interests on such Partnership Record Date). Notwithstanding the preceding sentence, in the event that items of Partnership income are specially allocated pursuant to Section 6.3E hereof (relating to the absence of an effective registration statement for the sale of shares of common stock of the Parent REIT), distributions with respect to Partnership Common Units shall first be made in accordance with such allocations, with any excess distributed pro rata in accordance with the preceding sentence. Distributions payable with respect to any Partnership Units that were not outstanding during the entire quarterly period in respect of which any distribution is made shall be prorated based on the portion of the period that such units were outstanding. The General Partner in its sole and absolute discretion may distribute to the Unitholders Available Cash on a

more frequent basis and provide for an appropriate Partnership Record Date. Notwithstanding anything herein to the contrary, the General Partner shall make such reasonable efforts, as determined by it in its sole and absolute discretion and consistent with the Parent REIT's qualification as a REIT, to cause the Partnership to distribute sufficient amounts to enable the Parent REIT to pay shareholder dividends that will (a) satisfy the REIT Requirements, and (b) except to the extent otherwise determined by the General Partner, avoid any federal income or excise tax liability of the Parent REIT.

Section 5.2 Distributions in Kind. No right is given to any Unitholder to demand and receive property other than cash as provided in this Agreement. The General Partner may determine, in its sole and absolute discretion, to make a distribution in kind of Partnership assets to the Unitholders, and such assets shall be distributed in such a fashion as to ensure that the fair market value is distributed and allocated in accordance with Articles 5, 6 and 10 hereof.

Section 5.3 Amounts Withheld. All amounts withheld pursuant to the Code or any provisions of any state or local tax law and Section 10.4 hereof with respect to any allocation, payment or distribution to any Unitholder shall be treated as amounts paid or distributed to such Unitholder pursuant to Section 5.1 hereof for all purposes under this Agreement.

Section 5.4 Distributions Upon Liquidation. Notwithstanding the other provisions of this Article 5, net proceeds from a Terminating Capital Transaction, and any other cash received or reductions in reserves made after commencement of the liquidation of the Partnership, shall be distributed to the Unitholders in accordance with Section 13.2 hereof.

Section 5.5 Distributions to Reflect Issuance of Additional Partnership Units. In the event that the Partnership issues additional Partnership Units pursuant to the provisions of Article 4 hereof, subject to Section 7.3.D, the General Partner is hereby authorized to make such revisions to this Article 5 as it determines are necessary or desirable to reflect the issuance of such additional Partnership Units, including, without limitation, making preferential distributions to certain classes of Partnership Units.

Section 5.6 Restricted Distributions. Notwithstanding any provision to the contrary contained in this Agreement, neither the Partnership nor the General Partner, on behalf of the Partnership, shall make a distribution to any Unitholder on account of its Partnership Interest or interest in Partnership Units if such distribution would violate Section 17-607 of the Act or other applicable law.

ARTICLE VI
ALLOCATIONS

Section 6.1 Timing and Amount of Allocations of Net Income and

Net Loss. Net Income and Net Loss of the Partnership shall be determined and allocated with respect to each Partnership Year of the Partnership as of the end of each such year. Except as otherwise provided in this Article 6, and subject to Section 11.6.C hereof, an allocation to a Unitholder of a share of Net Income or Net Loss shall be treated as an allocation of the same share of each item of income, gain, loss or deduction that is taken into account in computing Net Income or Net Loss.

Section 6.2 General Allocations.

A. In General. Subject to the terms of any Partnership Unit Designation and Section 4.11, except as otherwise provided in this Article 6 and subject to Section 11.6.C hereof, Net Income and Net Loss shall be allocated to each of the Holders of Partnership Common Units in accordance with their respective Percentage Interests at the end of each Partnership Year.

B. Allocations to Reflect Issuance of Additional Partnership Units. In the event that the Partnership issues additional Partnership Units pursuant to the provisions of Article 4 hereof, the General

Partner is hereby authorized to make such revisions to this Section 6.2 as it determines are necessary or desirable to reflect the terms of the issuance of such additional Partnership Units, including, without limitation, making preferential allocations to certain classes of Partnership Units.

Section 6.3 Additional Allocation Provisions. Notwithstanding the foregoing provisions of this Article 6:

A. Special Allocations Regarding Partnership Preferred Units. If any Partnership Preferred Units are redeemed pursuant to Section 4.6.B hereof (treating a full liquidation of the General Partner Interest for purposes of this Section 6.3.A as including a redemption of any then outstanding Partnership Preferred Units pursuant to Section 4.6.B hereof), for the Partnership Year that includes such redemption (and, if necessary, for subsequent Partnership Years) (a) gross income and gain shall be allocated to the General Partner to the extent that the amounts paid or payable with respect to the Partnership Preferred Units so redeemed (or treated as redeemed) exceed the aggregate Capital Contributions (net of liabilities assumed or taken subject to by the Partnership) per Partnership Preferred Unit allocable to the Partnership Preferred Units so redeemed (or treated as redeemed) and (b) deductions and losses shall be allocated to the General Partner to the extent that the aggregate Capital Contributions (net of liabilities assumed or taken subject to by the Partnership) per Partnership Preferred Unit allocable to the Partnership Preferred Units so redeemed (or treated as redeemed) exceed the amount paid or payable with respect to the Partnership Preferred Units so redeemed (or treated as redeemed).

B. Regulatory Allocations.

(i) Minimum Gain Chargeback. Except as otherwise provided in Regulations Section 1.704-2(f), notwithstanding the provisions of Section 6.2 hereof, or any other provision of this Article 6, if there is a net decrease in Partnership Minimum Gain during any Partnership Year, each Holder of Partnership Units shall be specially allocated items of Partnership income and gain for such year (and, if necessary, subsequent years) in an amount equal to such Holder's share of the net decrease in Partnership Minimum Gain, as determined under Regulations Section 1.704-2(g). Allocations pursuant to the previous sentence shall be made in proportion to the respective amounts required to be allocated to each Holder pursuant thereto. The items to be allocated shall be determined in accordance with Regulations Sections 1.704-2(f)(6) and 1.704-2(j)(2). This Section 6.3.B(i) is intended to qualify as a "minimum gain chargeback" within the meaning of Regulations Section 1.704-2(f) and shall be interpreted consistently therewith.

(ii) Partner Minimum Gain Chargeback. Except as otherwise provided in Regulations Section 1.704-2(i)(4) or in Section 6.3.B(i) hereof, if there is a net decrease in Partner Minimum Gain attributable to a Partner Nonrecourse Debt during any Partnership Year, each Holder of Partnership Units who has a share of the Partner Minimum Gain attributable to such Partner

Nonrecourse Debt, determined in accordance with Regulations Section 1.704-2(i)(5), shall be specially allocated items of Partnership income and gain for such year (and, if necessary, subsequent years) in an amount equal to such Holder's share of the net decrease in Partner Minimum Gain attributable to such Partner Nonrecourse Debt, determined in accordance with Regulations Section 1.704-2(i)(4). Allocations pursuant to the previous sentence shall be made in proportion to the respective amounts required to be allocated to each General Partner, Limited Partner and other Holder pursuant thereto. The items to be so allocated shall be determined in accordance with Regulations Sections 1.704-2(i)(4) and 1.704-2(j)(2). This Section 6.3.B(ii) is intended to qualify as a "chargeback of partner nonrecourse debt minimum gain" within the meaning of Regulations Section 1.704-2(i) and shall be interpreted consistently therewith.

(iii) Nonrecourse Deductions and Partner Nonrecourse Deductions. Any Nonrecourse Deductions for any Partnership Year shall be specially allocated to the Holders of Partnership Units in accordance with their Partnership Units. Any Partner Nonrecourse Deductions for any Partnership Year shall be specially allocated to the

Holder(s) who bears the economic risk of loss with respect to the Partner Nonrecourse Debt to which such Partner Nonrecourse Deductions are attributable, in accordance with Regulations Section 1.704-2(i).

(iv) Qualified Income Offset. If any Holder of Partnership Units unexpectedly receives an adjustment, allocation or distribution described in Regulations Section 1.704-1(b)(2)(ii)(d)(4), (5) or (6), items of Partnership income and gain shall be allocated, in accordance with Regulations Section 1.704-1(b)(2)(ii)(d), to such Holder in an amount and manner sufficient to eliminate, to the extent required by such Regulations, the Adjusted Capital Account Deficit of such Holder as quickly as possible, provided that an allocation pursuant to this Section 6.3.B(iv) shall be made if and only to the extent that such Holder would have an Adjusted Capital Account Deficit after all other allocations provided in this Article 6 have been tentatively made as if this Section 6.3.B(iv) were not in the Agreement. It is intended that this Section 6.3.B(iv) qualify and be construed as a "qualified income offset" within the meaning of Regulations Section 1.704-1(b)(2)(ii)(d) and shall be interpreted consistently therewith.

(v) Gross Income Allocation. In the event that any Holder of Partnership Units has a deficit Capital Account at the end of any Partnership Year that is in excess of the sum of (1) the amount (if any) that such Holder is obligated to restore to the Partnership upon complete liquidation of such Holder's Partnership Interest (including, the Holder's interest in outstanding Partnership Preferred Units and other Partnership Units) and (2) the amount that such Holder is deemed to be obligated to restore pursuant to the penultimate sentences of Regulations Sections 1.704-2(g)(1) and 1.704-2(i)(5), each such Holder shall be specially allocated items of Partnership income and gain in the amount of such excess to eliminate such deficit as quickly as possible, provided that an allocation pursuant to this Section 6.3.B(v) shall be made if and only to the extent that such Holder would have a deficit Capital Account in excess of such sum after all other allocations provided in this Article 6 have been tentatively made as if this Section 6.3.B(v) and Section 6.3.B(iv) hereof were not in the Agreement.

(vi) Limitation on Allocation of Net Loss. To the extent that any allocation of Net Loss would cause or increase an Adjusted Capital Account Deficit as to any Holder of Partnership Units, such allocation of Net Loss shall be reallocated among the other Holders of Partnership Units in accordance with their respective Partnership Units, subject to the limitations of this Section 6.3.B(vi).

(vii) Section 754 Adjustment. To the extent that an adjustment to the adjusted tax basis of any Partnership asset pursuant to Code Section 734(b) or Code Section

743(b) is required, pursuant to Regulations Section 1.704-1(b)(2)(iv)(m)(2) or Regulations Section 1.704-1(b)(2)(iv)(m)(4), to be taken into account in determining Capital Accounts as the result of a distribution to a Holder of Partnership Units in complete liquidation of its interest in the Partnership, the amount of such adjustment to the Capital Accounts shall be treated as an item of gain (if the adjustment increases the basis of the asset) or loss (if the adjustment decreases such basis), and such gain or loss shall be specially allocated to the Holders in accordance with their Partnership Common Units in the event that Regulations Section 1.704-1(b)(2)(iv)(m)(2) applies, or to the Holders to whom such distribution was made in the event that Regulations Section 1.704-1(b)(2)(iv)(m)(4) applies.

(viii) Curative Allocations. The allocations set forth in Sections 6.3.B(i), (ii), (iii), (iv), (v), (vi) and (vii) hereof (the "Regulatory Allocations") are intended to comply with certain regulatory requirements, including the requirements of Regulations Sections 1.704-1(b) and 1.704-2. Notwithstanding the provisions of Section 6.1 hereof, the Regulatory Allocations shall be taken into account in allocating other items of income, gain, loss and deduction among the Holders of Partnership Units so that to the extent possible without violating the requirements giving rise to the Regulatory Allocations, the net amount

of such allocations of other items and the Regulatory Allocations to each Holder of a Partnership Unit shall be equal to the net amount that would have been allocated to each such Holder if the Regulatory Allocations had not occurred.

C. Special Allocations Upon Liquidation. Notwithstanding any provision in this Article VI to the contrary, in the event that the Partnership disposes of all or substantially all of its assets in a transaction that will lead to a liquidation of the Partnership pursuant to Article 13 hereof, then any Net Income or Net Loss realized in connection with such transaction and thereafter (and, if necessary, constituent items of income, gain, loss and deduction) shall be specially allocated among the Partners as required so as to cause liquidating distributions pursuant to Section 13.2.A(4) hereof to be made in the same amounts and proportions as would have resulted had such distributions instead been made pursuant to Article 5 hereof (other than Section 5.4 hereof).

D. Allocation of Excess Nonrecourse Liabilities. The Partnership shall allocate "nonrecourse liabilities" (within the meaning of Regulations Section 1.752-1(a)(2)) of the Partnership that are secured by multiple Properties under any reasonable method chosen by the General Partner in accordance with Regulations Section 1.752-3(a)(3)(b). The Partnership shall allocate "excess nonrecourse liabilities" of the Partnership under any method approved under Regulations Section 1.752-3(a)(3) as chosen by the General Partner. For purposes of determining a Holder's proportional share of the "excess nonrecourse liabilities" of the Partnership within the meaning of Regulations Section 1.752-3(a)(3), each Holder's interest in Partnership profits shall be equal to such Holder's share of Partnership Units.

E. Failure to Register REIT Shares. In the event that a registration statement with respect to REIT Shares is not filed with the SEC by December 31, 2003, or is not declared effective by June 30, 2004, or upon the occurrence of another event as described in Section 5(d) of the Registration Rights Agreement, items of Partnership income that are otherwise allocable to Partnership Common Units shall thereafter first be allocated to those Partnership Common Units that are held by the General Partner and the Initial Limited Partner, in the amount of $0.0625 per Partnership Common Unit per quarter, thereafter increasing by an additional $0.0625 per Partnership Common Unit per quarter, up to a maximum allocation of $0.25 per Partnership Common Unit per quarter, for so long as such situation as described in Section 5(d) of the Registration Rights Agreement persists, provided, however, that if an event described in subparagraph (i) of the definition of Adjustment Factor occurs, the number of Partnership Common Units held by the General Partner and the Initial Limited Partner shall for purposes of this Section 6.3 be multiplied by the Adjustment Factor determined by taking into account adjustments under subparagraph (i) of the definition of Adjustment Factor but without taking into account any adjustments under subparagraphs (ii) and (iii) of the definition of

Adjustment Factor.

F. Exercise of Warrants. To the extent that a Partnership Unit is issued upon exercise of a Warrant described in Section 4.10, and the value of such Partnership Unit differs from the amount paid therefor (including the amount, if any, paid in connection with the issuance of such Warrant), such difference shall be allocated among the Partners in the manner prescribed by Proposed Treasury Regulation Section 1.704-1(b)(2)(iv)(s), or any successor provision thereto.

Section 6.4 Tax Allocations.

A. In General. Except as otherwise provided in this Section 6.4, for income tax purposes under the Code and the Regulations each Partnership item of income, gain, loss and deduction (collectively, "Tax Items") shall be allocated among the Holders of Partnership Common Units in the same manner as its correlative item of "book" income, gain, loss or deduction is allocated pursuant to Sections 6.2 and 6.3 hereof.

B. Allocations Respecting Section 704(c) Revaluations. Notwithstanding Section 6.4.A hereof, Tax Items with respect to Property that is contributed to the Partnership with a Gross Asset Value that varies from its basis in the hands of the contributing Partner immediately preceding the date of contribution shall be allocated among the Holders of Partnership Common Units for income tax purposes pursuant to Regulations promulgated under Code Section 704(c) so as to take into account such variation. The Partnership

shall account for such variation under any method approved under Code Section 704(c) and the applicable Regulations as chosen by the General Partner, including, without limitation, the "remedial allocation method" as described in Regulations Section 1.704-3(d). In the event that the Gross Asset Value of any partnership asset is adjusted pursuant to subsection (b) of the definition of "Gross Asset Value" (provided in Article 1 hereof), subsequent allocations of Tax Items with respect to such asset shall take account of the variation, if any, between the adjusted basis of such asset and its Gross Asset Value in the same manner as under Code Section 704(c) and the applicable Regulations.

ARTICLE VII
MANAGEMENT AND OPERATIONS OF BUSINESS

Section 7.1 Management.

A. Except as otherwise expressly provided in this Agreement, all management powers over the business and affairs of the Partnership are and shall be exclusively vested in the General Partner, and no Limited Partner shall have any right to participate in or exercise control or management power over the business and affairs of the Partnership. The General Partner may not be removed by the Partners with or without cause, except with the consent of the General Partner. In addition to the powers now or hereafter granted to a general partner of a limited partnership under applicable law or that are granted to the General Partner under any other provision of this Agreement, the General Partner, subject to the other provisions hereof including Section 7.3, shall have full power and authority to do all things deemed necessary or desirable by it to conduct the business of the Partnership, to exercise all powers set forth in Section 3.2 hereof and to effectuate the purposes set forth in Section 3.1 hereof, including, without limitation:

(1) the making of any expenditures, the lending or borrowing of money (including, without limitation, making prepayments on loans and borrowing money or selling assets to permit the Partnership to make distributions to its Partners in such amounts as will permit the Parent REIT (so long as the Parent REIT desires to maintain or restore its status as a REIT) to avoid the payment of any federal income tax (including, for this purpose, any excise tax pursuant to Code Section 4981) and to make distributions sufficient to permit the Parent REIT to maintain or restore REIT status or otherwise to satisfy the REIT Requirements), the assumption or guarantee of, or other contracting for, indebtedness and other liabilities, the issuance of evidences of indebtedness (including the securing of same by deed to secure debt, mortgage, deed of trust or other lien or encumbrance on the Partnership's assets) and the incurring of any obligations that it deems necessary for the conduct of

the activities of the Partnership;

(2) the making of tax, regulatory and other filings, or rendering of periodic or other reports to governmental or other agencies having jurisdiction over the business or assets of the Partnership;

(3) the acquisition, sale, lease, transfer, exchange or other disposition of any, all or substantially all of the assets of the Partnership (including, but not limited to, the exercise or grant of any conversion, option, privilege or subscription right or any other right available in connection with any assets at any time held by the Partnership) or the merger, consolidation, reorganization or other combination of the Partnership with or into another entity;

(4) the mortgage, pledge, encumbrance or hypothecation of any assets of the Partnership, the use of the assets of the Partnership (including, without limitation, cash on hand) for any purpose consistent with the terms of this Agreement and on any terms that it sees fit, including, without limitation, the financing of the operations and activities of the Parent REIT, the General Partner, the Partnership or any of the Partnership's Subsidiaries, the lending of funds to other Persons (including, without limitation, the Partnership's Subsidiaries) and the repayment of obligations of the Partnership, its

Subsidiaries and any other Person in which the Partnership has an equity investment, and the making of capital contributions to and equity investments in the Partnership's Subsidiaries;

(5) the management, operation, leasing, landscaping, repair, alteration, demolition, replacement or improvement of any Property, including, without limitation, any Contributed Property, or other asset of the Partnership or any Subsidiary, whether pursuant to a Services Agreement or otherwise;

(6) the negotiation, execution and performance of any contracts, leases, conveyances or other instruments that the General Partner considers useful or necessary to the conduct of the Partnership's operations or the implementation of the General Partner's powers under this Agreement, including contracting with contractors, developers, consultants, accountants, legal counsel, other professional advisors and other agents and the payment of their expenses and compensation out of the Partnership's assets;

(7) the distribution of Partnership cash or other Partnership assets in accordance with this Agreement, the holding, management, investment and reinvestment of cash and other assets of the Partnership, and the collection and receipt of revenues, rents and income of the Partnership;

(8) the maintenance of such insurance for the benefit of the Partnership and the Partners as it deems necessary or appropriate, including, without limitation, (i) casualty, liability and other insurance on the Properties and (ii) liability insurance for the Indemnitees hereunder;

(9) the formation of, or acquisition of an interest in, and the contribution of property to, any further limited or general partnerships, limited liability companies, joint ventures or other relationships that it deems desirable (including, without limitation, the acquisition of interests in, and the contributions of property to, any Subsidiary and any other Person in which it has an equity investment from time to time); provided, however, that, as long as the Parent REIT has determined to continue to qualify as a REIT, the General Partner may not engage in any such formation, acquisition or contribution that would cause the Parent REIT to fail to qualify as a REIT within the meaning of Code Section 856(a);

(10) the control of any matters

affecting the rights and obligations of the Partnership, including the settlement, compromise, submission to arbitration or any other form of dispute resolution, or abandonment, of any claim, cause of action, liability, debt or damages, due or owing to or from the Partnership, the commencement or defense of suits, legal proceedings, administrative proceedings, arbitrations or other forms of dispute resolution, and the representation of the Partnership in all suits or legal proceedings, administrative proceedings, arbitrations or other forms of dispute resolution, the incurring of legal expense, and the indemnification of any Person against liabilities and contingencies to the extent permitted by law;

(11) the undertaking of any action in connection with the Partnership's direct or indirect investment in any Subsidiary or any other Person (including, without limitation, the contribution or loan of funds by the Partnership to such Persons);

(12) except as otherwise specifically set forth in this Agreement, the determination of the fair market value of any Partnership property distributed in kind using such reasonable method of valuation as it may adopt; provided that such methods are otherwise consistent with the requirements of this Agreement;

(13) the enforcement of any rights against any Partner pursuant to representations, warranties, covenants and indemnities relating to such Partner's contribution of property or assets to the Partnership;

(14) the exercise, directly or indirectly, through any attorney-in-fact acting under a general or limited power of attorney, of any right, including the right to vote, appurtenant to any asset or investment held by the Partnership;

(15) the exercise of any of the powers of the General Partner enumerated in this Agreement on behalf of or in connection with any Subsidiary of the Partnership or any other Person in which the Partnership has a direct or indirect interest, or jointly with any such Subsidiary or other Person;

(16) the exercise of any of the powers of the General Partner enumerated in this Agreement on behalf of any Person in which the Partnership does not have an interest, pursuant to contractual or other arrangements with such Person;

(17) the making, execution and delivery of any and all deeds, leases, notes, deeds to secure debt, mortgages, deeds of trust, security agreements, conveyances, contracts, guarantees, warranties, indemnities, waivers, releases or legal instruments or agreements in writing necessary or appropriate in the judgment of the General Partner for the accomplishment of any of the powers of the General Partner enumerated in this Agreement;

(18) the issuance of additional Partnership Units, as appropriate and in the General Partner's sole and absolute discretion, in connection with Capital Contributions by Additional Limited Partners and additional Capital Contributions by Partners pursuant to Article 4 hereof;

(19) the selection and dismissal of Company Employees (including, without limitation, employees having titles or offices such as president, vice president, secretary and treasurer), and agents, outside attorneys, accountants, consultants and contractors of the Partnership or the General Partner, the determination of their compensation and other terms of employment or hiring and the delegation to any such Company Employee the authority to conduct the business of the Partnership in accordance with the terms of this Agreement; and

(20) an election to dissolve the Partnership pursuant to Section 13.1.C hereof.

B. Each of the Limited Partners agrees that, except as provided in Section 7.3 hereof, the General Partner is authorized to execute, deliver and perform the above-mentioned agreements and transactions on behalf of the Partnership without any further act, approval or vote of the Partners, notwithstanding any other provision of this Agreement, the Act or any applicable law, rule or regulation. The execution, delivery or performance by the General Partner or the Partnership of any agreement authorized or permitted under this Agreement shall not constitute a breach by the General Partner of any duty that the General Partner may owe the Partnership or the Limited Partners or any other Persons under this Agreement or of any duty stated or implied by law or equity.

C. At all times from and after the date hereof, the General Partner may cause the Partnership to establish and maintain working capital and other reserves in such amounts as the General Partner, in its sole and absolute discretion, deems appropriate and reasonable from time to time.

D. In exercising its authority under this Agreement, the General Partner may, but shall be under no obligation to, take into account the tax consequences to any Partner (including the General Partner) of any action taken by it. The General Partner and the Partnership shall not have liability to a Limited Partner

under any circumstances as a result of an income tax liability incurred by such Limited Partner as a result of an action (or inaction) by the General Partner pursuant to its authority under this Agreement.

Section 7.2 Certificate of Limited Partnership. To the extent that such action is determined by the General Partner to be reasonable and necessary or appropriate, the General Partner shall file amendments to and restatements of the Certificate and do all the things to maintain the Partnership as a limited partnership (or a partnership in which the limited partners have limited liability) under the laws of the State of Delaware and each other state, the District of Columbia or any other jurisdiction, in which the Partnership may elect to do business or own property. Except as otherwise required under the Act, the General Partner shall not be required, before or after filing, to deliver or mail a copy of the Certificate or any amendment thereto to any Limited Partner. The General Partner shall use all reasonable efforts to cause to be filed such other certificates or documents as may be reasonable and necessary or appropriate for the formation, continuation, qualification and operation of a limited partnership (or a partnership in which the limited partners have limited liability to the extent provided by applicable law) in the State of Delaware and any other state, or the District of Columbia or other jurisdiction, in which the Partnership may elect to do business or own property.

Section 7.3 Restrictions on General Partner's Authority.

A. The General Partner may not take any action in contravention of this Agreement, including, without limitation:

(1) taking any action that would make it impossible to carry on the ordinary business of the Partnership, except as otherwise provided in this Agreement;

(2) possessing Property, or assigning any rights in specific Property, for other than a Partnership purpose except as otherwise provided in this Agreement, including, without limitation, Section 7.10;

(3) admitting a Person as a Partner, except as otherwise provided in this Agreement;

(4) performing any act that would subject a Limited Partner to liability as a general partner in any jurisdiction or any other liability except as provided Section 10.4 hereof or under the Act; or

(5) entering into any contract, mortgage, loan or other agreement that prohibits or restricts the ability of (a) the General Partner, the Parent REIT or the Partnership from satisfying its obligations under Section 8.6 hereof in

full or (b) a Limited Partner from exercising its rights under Section 8.6 hereof to effect a Redemption in full, except, in either case, with the written consent of such Limited Partner affected by the prohibition or restriction.

B. The General Partner shall not, without the prior Consent of the Limited Partners, except as provided in Sections 4.2.A, 5.5, 6.2.B and 7.3.C hereof, amend, modify or terminate this Agreement.

C. Notwithstanding Section 7.3.B hereof, the General Partner shall have the power, without the Consent of the Limited Partners, to amend this Agreement as may be required to facilitate or implement any of the following purposes:

(1) to add to the obligations of the General Partner or surrender any right or power granted to the General Partner or any Affiliate of the General Partner for the benefit of the Limited Partners;

(2) to reflect the admission, substitution or withdrawal of Partners or the termination of the Partnership in accordance with this Agreement, and to amend Exhibit A in connection with such admission, substitution or withdrawal;

(3) to reflect a change that is of an inconsequential nature and does not adversely affect the Limited Partners in any material respect, or to cure any ambiguity, correct or supplement any provision in this Agreement not inconsistent with law or with other provisions, or make other changes with respect to matters arising under this Agreement that will not be inconsistent with law or with the provisions of this Agreement;

(4) to 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;

(5) (a) to reflect such changes as are reasonably necessary for the Parent REIT to maintain or restore its status as a REIT or to satisfy the REIT Requirements; or (b) to reflect the Transfer of all or any part of a Partnership Interest between the General Partner or Initial Limited Partner and any Qualified REIT Subsidiary;

(6) to modify the manner in which Capital Accounts are computed (but only to the extent set forth in the definition of "Capital Account" or contemplated by the Code or the Regulations); and

(7) to issue additional Partnership Interests in accordance with Section 4.2.

D. Notwithstanding Sections 7.3.B and 7.3.C hereof, this Agreement shall not be amended, and no action may be taken by the General Partner, without the Consent of each Partner adversely affected thereby, if such amendment or action would (i) convert a Limited Partner Interest in the Partnership into a General Partner Interest (except as a result of the General Partner acquiring such Partnership Interest), (ii) modify the limited liability of a Limited Partner, (iii) alter the rights of any Partner to receive the distributions to which such Partner is entitled, pursuant to Article 5 or Section 13.2.A hereof, or alter the allocations specified in Article 6 hereof (except, in any case, as permitted pursuant to Sections 4.2, 5.5, 6.2.B and 7.3.C hereof), (iv) alter or modify the Redemption rights, Cash Amount, REIT Consideration, or REIT Shares Amount as set forth in Sections 8.6 and 11.2 hereof, or amend or modify any related definitions, or (v) amend this Section 7.3.D; provided, however, that the Consent of each Partner adversely affected shall not be required for any amendment or action that affects all Partners holding the same class or series of Partnership Units on a uniform or pro rata basis. Further, no amendment may alter the restrictions on the General Partner's authority set forth elsewhere in this Section 7.3 without the Consent specified therein. Any such amendment or action consented to by any Partner shall be effective as to that Partner, notwithstanding the absence of such consent by any

other Partner.

Section 7.4 Reimbursement of the General Partner.

A. The General Partner shall not be compensated for its services as general partner of the Partnership except as provided in this Agreement (including the provisions of Articles 5 and 6 hereof regarding distributions, payments and allocations to which it may be entitled in its capacity as the General Partner).

B. Subject to Sections 7.4.C and 15.11 hereof, the Partnership shall be liable for, and shall reimburse the General Partner and the Parent REIT on a monthly basis, or such other basis as the General Partner may determine in its sole and absolute discretion, for all sums expended in connection with the Partnership's business, including, without limitation, (i) expenses relating to the ownership of interests in and management and operation of, or for the benefit of, the Partnership, (ii) compensation of officers and employees, including, without limitation, payments under future compensation plans of the Parent REIT that may provide for stock units, or phantom stock, pursuant to which employees of the Parent REIT will receive payments based upon dividends on or the value of REIT Shares, (iii) director fees and expenses and (iv) if the

Parent REIT becomes a public company, all costs and expenses of the Parent REIT being a public company, including costs of filings with the SEC, reports and other distributions to its shareholders; provided, however, that the amount of any reimbursement shall be reduced by any interest earned by the Parent REIT with respect to bank accounts or other instruments or accounts held by it on behalf of the Partnership as permitted pursuant to Section 7.5 hereof. Such reimbursements shall be in addition to any reimbursement of the General Partner as a result of indemnification pursuant to Section 7.7 hereof.

C. To the extent practicable, Partnership expenses shall be billed directly to and paid by the Partnership and, subject to Section 15.11 hereof, reimbursements to the General Partner or any of its Affiliates by the Partnership pursuant to this Section 7.4 shall be treated as non-income reimbursements, and not as "guaranteed payments" within the meaning of Code Section 707(c) or other form of gross income.

Section 7.5 Outside Activities of the General Partner. The General Partner and the Parent REIT shall not directly or indirectly enter into or conduct any business, other than in connection with (a) the ownership, acquisition and disposition of Partnership Interests as General Partner, (b) the management of the business of the Partnership, (c) if the Parent REIT becomes a reporting company with a class (or classes) of securities registered under the Exchange Act, the operation of the Parent REIT as such, (d) the Parent REIT's operations as a REIT, (e) the offering, sale, syndication, private placement or public offering of stock, bonds, securities or other interests, (f) financing or refinancing of any type related to the Partnership or its assets or activities, (g) any of the foregoing activities as they relate to a Subsidiary of the Partnership or of the General Partner and (h) such activities as are incidental thereto. Nothing contained herein shall be deemed to prohibit the General Partner from executing guarantees of Partnership debt for which it would otherwise be liable in its capacity as General Partner. Subject to Section 7.3.B hereof, the Parent REIT shall not own any assets or take title to assets (other than temporarily in connection with an acquisition prior to contributing such assets to the Partnership) other than interests in the General Partner, The Initial Limited Partner, Subsidiaries of the Partnership and other than such cash and cash equivalents, bank accounts or similar instruments or accounts as the Parent REIT deems reasonably necessary, taking into account Section 7.1.D hereof and the requirements necessary for the Parent REIT to carry out its responsibilities contemplated under this Agreement and the Charter and to qualify as a REIT. Notwithstanding the foregoing, if the Parent REIT acquires assets in its own name and owns Property other than through the Partnership, the Partners agree to negotiate in good faith to amend this Agreement, including, without limitation, the definition of "Adjustment Factor," to reflect such activities and the direct ownership of assets by the Parent REIT. The Parent REIT and any Affiliates of the Parent REIT may acquire Limited Partner Interests and shall be entitled to exercise all rights of a Limited Partner relating to such Limited Partner Interests.

Section 7.6 Contracts with Affiliates.

A. The Partnership may lend or contribute funds or other assets to its Subsidiaries or other Persons in which it has an equity investment, and such Persons may borrow funds from the Partnership, on terms and conditions established in the sole and absolute discretion of the General Partner. The foregoing authority shall not create any right or benefit in favor of any Subsidiary or any other Person.

B. Except as provided in Section 7.5 hereof and subject to Section 3.1 hereof, the Partnership may transfer assets to joint ventures, limited liability companies, partnerships, corporations, business trusts or other business entities in which it is or thereby becomes a participant upon such terms and subject to such conditions consistent with this Agreement and applicable law as the General Partner, in its sole and absolute discretion, believes to be advisable.

C. Except as expressly permitted by this Agreement, neither the General Partner nor any of its Affiliates shall sell, transfer or convey any property to the Partnership, directly or indirectly, except pursuant to transactions that are determined by the General Partner in good faith to be fair and reasonable.

D. The General Partner, in its sole and absolute discretion and without the approval of the Limited Partners, may propose and adopt on behalf of the Partnership employee benefit plans funded by the Partnership for the benefit of employees of the Parent REIT, the Partnership, Subsidiaries of the Partnership or

any Affiliate of any of them in respect of services performed, directly or indirectly, for the benefit of the Partnership or any of the Partnership's Subsidiaries.

E. The General Partner is expressly authorized to enter into, in the name and on behalf of the Partnership, any Services Agreement with Affiliates of any of the Partnership or the General Partner, on such terms as the General Partner, in its sole and absolute discretion, believes are advisable.

Section 7.7 Indemnification.

A. To the fullest extent permitted by applicable law, the Partnership shall indemnify each Indemnitee from and against any and all losses, claims, damages, liabilities (whether joint or several), expenses (including, without limitation, attorney's fees and other legal fees and expenses), judgments, fines, settlements and other amounts arising from any and all claims, demands, actions, suits or proceedings, civil, criminal, administrative or investigative, that relate to the operations of the Partnership ("Actions") as set forth in this Agreement in which such Indemnitee may be involved, or is threatened to be involved, as a party or otherwise; provided, however, that the Partnership shall not indemnify an Indemnitee (i) for the act or omission of the Indemnitee material to the matter giving rise to the proceeding which was committed in bad faith or was the result of active and deliberate dishonesty; (ii) for any transaction for which such Indemnitee received an improper personal benefit (in money, property or services) in violation or breach of any provision of this Agreement; or (iii) in the case of a criminal proceeding, for an unlawful act or omission by the Indemnitee for which the Indemnitee had reasonable cause to believe was unlawful. Without limitation, the foregoing indemnity shall extend to any liability of any Indemnitee, pursuant to a loan guaranty or otherwise, for any indebtedness of the Partnership or any Subsidiary of the Partnership (including, without limitation, any indebtedness which the Partnership or any Subsidiary of the Partnership has assumed or taken subject to), and the General Partner is hereby authorized and empowered, on behalf of the Partnership, to enter into one or more indemnity agreements consistent with the provisions of this Section 7.7 in favor of any Indemnitee having or potentially having liability for any such indebtedness. It is the intention of this Section 7.7.A that the Partnership indemnify each Indemnitee to the fullest extent permitted by law. The termination of any proceeding by judgment, order or settlement does not create a presumption that the Indemnitee did not meet the requisite standard of conduct set forth in this Section 7.7.A. The termination of any proceeding by conviction of an Indemnitee or upon a plea of nolo contendere or its equivalent by an Indemnitee, or an entry of an order of probation against an Indemnitee prior to

judgment, does not create a presumption that such Indemnitee acted in a manner contrary to that specified in this Section 7.7.A with respect to the subject matter of such proceeding. Any indemnification pursuant to this Section 7.7 shall be made only out of the assets of the Partnership, and neither the General Partner nor any Limited Partner shall have any obligation to contribute to the capital of the Partnership or otherwise provide funds to enable the Partnership to fund its obligations under this Section 7.7.

B. To the fullest extent permitted by law, expenses incurred by an Indemnitee who is a party to a proceeding or otherwise subject to or the focus of or is involved in any Action shall be paid or reimbursed by the Partnership as incurred by the Indemnitee in advance of the final disposition of the Action upon receipt by the Partnership of (i) a written affirmation by the Indemnitee of the Indemnitee's good faith belief that the standard of conduct necessary for indemnification by the Partnership as authorized in this Section 7.7.A has been met, and (ii) a written undertaking by or on behalf of the Indemnitee to repay the amount if it shall ultimately be determined that the standard of conduct has not been met.

C. The indemnification provided by this Section 7.7 shall be in addition to any other rights to which an Indemnitee or any other Person may be entitled under any agreement, pursuant to any vote of the Partners, as a matter of law or otherwise, and shall continue as to an Indemnitee who has ceased to serve in such capacity and shall inure to the benefit of the heirs, successors, assigns and administrators of the Indemnitee unless otherwise provided in a written agreement with such Indemnitee or in the writing pursuant to which such Indemnitee is indemnified.

D. The Partnership may, but shall not be obligated to, purchase and maintain insurance, on behalf of any of the Indemnitees and such other Persons as the General Partner shall determine, against any liability that may be asserted against or expenses that may be incurred by such Person in connection with the

Partnership's activities, regardless of whether the Partnership would have the power to indemnify such Person against such liability under the provisions of this Agreement.

E. Any liabilities which an Indemnitee incurs as a result of acting on behalf of the Partnership, the Parent REIT or the General Partner (whether as a fiduciary or otherwise) in connection with the operation, administration or maintenance of an employee benefit plan or any related trust or funding mechanism (whether such liabilities are in the form of excise taxes assessed by the IRS, penalties assessed by the Department of Labor, restitutions to such a plan or trust or other funding mechanism or to a participant or beneficiary of such plan, trust or other funding mechanism, or otherwise) shall be treated as liabilities or judgments or fines under this Section 7.7, unless such liabilities arise as a result of (i) the act or omission of the Indemnitee material to the matter giving rise to the proceeding which was committed in bad faith or was the result of active and deliberate dishonesty; (ii) any transaction for which such Indemnitee received an improper personal benefit (in money, property or services) in violation or breach of any provision of this Agreement; or (iii) in the case of a criminal proceeding, an unlawful act or omission by the Indemnitee for which the Indemnitee had reasonable cause to believe was unlawful.

F. In no event may an Indemnitee subject any of the Partners to personal liability by reason of the indemnification provisions set forth in this Agreement.

G. An Indemnitee shall not be denied indemnification in whole or in part under this Section 7.7 because the Indemnitee had an interest in the transaction with respect to which the indemnification applies if the transaction was otherwise permitted by the terms of this Agreement.

H. The provisions of this Section 7.7 are for the benefit of the Indemnitees, their heirs, successors, assigns and administrators and shall not be deemed to create any rights for the benefit of any other Persons. Any amendment, modification or repeal of this Section 7.7 or any provision hereof shall be prospective only and shall not in any way affect the obligations of the Partnership or the limitations on the Partnership's liability to any Indemnitee under this Section 7.7 as in effect immediately prior to such

amendment, modification or repeal with respect to claims arising from or relating to matters occurring, in whole or in part, prior to such amendment, modification or repeal, regardless of when such claims may arise or be asserted.

I. It is the intent of the Partners that any amounts paid by the Partnership to the General Partner pursuant to this Section 7.7 shall be treated as "guaranteed payments" within the meaning of Code Section 707(c).

Section 7.8 Liability of the General Partner.

A. Notwithstanding anything to the contrary set forth in this Agreement, neither the General Partner nor any of its directors or officers shall be liable or accountable in damages or otherwise to the Partnership, any Partners or any Assignees for losses sustained, liabilities incurred or benefits not derived as a result of errors in judgment or mistakes of fact or law or of any act or omission if the General Partner or such director or officer acted in good faith.

B. The Limited Partners expressly acknowledge that the General Partner is acting for the benefit of the Partnership, the Limited Partners and the General Partner's shareholders collectively and that the General Partner is under no obligation to give priority to the separate interests of the Limited Partners or the General Partner's shareholders (including, without limitation, the tax consequences to Limited Partners, Assignees or the General Partner's shareholders) in deciding whether to cause the Partnership to take (or decline to take) any actions.

C. Subject to its obligations and duties as General Partner set forth in Section 7.1.A hereof, the General Partner may exercise any of the powers granted to it by this Agreement and perform any of the duties imposed upon it hereunder either directly or by or through its employees or agents (subject to the supervision and control of the General Partner). The General Partner shall not be responsible for any misconduct or negligence on the part of any such agent appointed by it in good faith.

D. To the extent that, at law or in equity, the General Partner has duties (including fiduciary duties) and liabilities relating thereto to the Partnership or the Limited Partners, the General Partner shall not be liable to the Partnership or to any other Partner for its good faith reliance on the provisions of this Agreement. The provisions of this Agreement, to the extent that they restrict the duties and liabilities of the General Partner otherwise existing at law or in equity, are agreed by the Partners to replace such other duties and liabilities of such General Partner.

E. Notwithstanding anything herein to the contrary, except for fraud, willful misconduct or gross negligence, or pursuant to any express indemnities given to the Partnership by any Partner pursuant to any other written instrument, no Partner shall have any personal liability whatsoever, to the Partnership or to the other Partner(s), for the debts or liabilities of the Partnership or the Partnership's obligations hereunder, and the full recourse of the other Partner(s) shall be limited to the interest of that Partner in the Partnership. To the fullest extent permitted by law, no officer, director or shareholder of the General Partner or Parent REIT shall be liable to the Partnership for money damages except for (i) active and deliberate dishonesty established by a non-appealable final judgment or (ii) actual receipt of an improper benefit or profit in money, property or services. Without limitation of the foregoing, and except for fraud, willful misconduct or gross negligence, or pursuant to any such express indemnity, no property or assets of any Partner, other than its interest in the Partnership, shall be subject to levy, execution or other enforcement procedures for the satisfaction of any judgment (or other judicial process) in favor of any other Partner(s) and arising out of, or in connection with, this Agreement. This Agreement is executed by the officers of the General Partner solely as officers of the same and not in their own individual capacities.

F. Any amendment, modification or repeal of this Section 7.8 or any provision hereof shall be prospective only and shall not in any way affect the limitations on the General Partner's, and its officers' and directors', liability to the Partnership and the Limited Partners under this Section 7.8 as in effect immediately prior to such amendment, modification or repeal with respect to claims arising from or relating to matters occurring, in

whole or in part, prior to such amendment, modification or repeal, regardless of when such claims may arise or be asserted.

Section 7.9 Other Matters Concerning the General Partner.

A. The General Partner may rely and shall be protected in acting or refraining from acting upon any resolution, certificate, statement, instrument, opinion, report, notice, request, consent, order, bond, debenture or other paper or document believed by it in good faith to be genuine and to have been signed or presented by the proper party or parties.

B. The General Partner may consult with legal counsel, accountants, appraisers, management consultants, investment bankers, architects, engineers, environmental consultants and other consultants and advisers selected by it, and any act taken or omitted to be taken in reliance upon the opinion of such Persons as to matters that the General Partner reasonably believes to be within such Person's professional or expert competence shall be conclusively presumed to have been done or omitted in good faith and in accordance with such opinion.

C. The General Partner shall have the right, in respect of any of its powers or obligations hereunder, to act through any of its duly authorized officers and a duly appointed attorney or attorneys-in-fact. Each such attorney shall, to the extent provided by the General Partner in the power of attorney, have full power and authority to do and perform all and every act and duty that is permitted or required to be done by the General Partner hereunder.

D. Notwithstanding any other provision of this Agreement or the Act, any action of the General Partner on behalf of the Partnership or any decision of the General Partner to refrain from acting on behalf of the Partnership, undertaken in the good faith belief that such action or omission is necessary or advisable in order (i) to protect the ability of the Parent REIT to continue to qualify as a REIT, (ii) for the Parent REIT otherwise to satisfy the REIT Requirements, (iii) to avoid the Parent REIT incurring any taxes

under Code Section 857 or Code Section 4981, is expressly authorized under this Agreement and is deemed approved by all of the Limited Partners.

Section 7.10 Title to Partnership Assets. Title to Partnership assets, whether real, personal or mixed and whether tangible or intangible, shall be deemed to be owned by the Partnership as an entity, and no Partner, individually or collectively with other Partners or Persons, shall have any ownership interest in such Partnership assets or any portion thereof. Title to any or all of the Partnership assets may be held in the name of the Partnership, the General Partner or one or more nominees, as the General Partner may determine, including Affiliates of the General Partner. The General Partner hereby declares and warrants that any Partnership assets for which legal title is held in the name of the General Partner or any nominee or Affiliate of the General Partner shall be held by the General Partner for the use and benefit of the Partnership in accordance with the provisions of this Agreement. All Partnership assets shall be recorded as the property of the Partnership in its books and records, irrespective of the name in which legal title to such Partnership assets is held.

Section 7.11 Reliance by Third Parties. Notwithstanding anything to the contrary in this Agreement, any Person dealing with the Partnership shall be entitled to assume that the General Partner has full power and authority, without the consent or approval of any other Partner or Person, to encumber, sell or otherwise use in any manner any and all assets of the Partnership and to enter into any contracts on behalf of the Partnership, and take any and all actions on behalf of the Partnership, and such Person shall be entitled to deal with the General Partner as if it were the Partnership's sole party in interest, both legally and beneficially. Each Limited Partner hereby waives any and all defenses or other remedies that may be available against such Person to contest, negate or disaffirm any action of the General Partner in connection with any such dealing. In no event shall any Person dealing with the General Partner or its representatives be obligated to ascertain that the terms of this Agreement have been complied with or to inquire into the necessity or expediency of any act or action of the General Partner or its representatives. Each and every certificate, document or other instrument executed on behalf of the Partnership by the General Partner or its representatives shall be

conclusive evidence in favor of any and every Person relying in good faith thereon or claiming thereunder that (i) at the time of the execution and delivery of such certificate, document or instrument, this Agreement was in full force and effect, (ii) the Person executing and delivering such certificate, document or instrument was duly authorized and empowered to do so for and on behalf of the Partnership and (iii) such certificate, document or instrument was duly executed and delivered in accordance with the terms and provisions of this Agreement and is binding upon the Partnership.

ARTICLE VIII
RIGHTS AND OBLIGATIONS OF LIMITED PARTNERS

Section 8.1 Limitation of Liability. The Limited Partners shall have no liability under this Agreement (other than for breach thereof) except as expressly provided in Section 10.4 or under the Act.

Section 8.2 Management of Business. No Limited Partner or Assignee (other than the General Partner, any of its Affiliates or any officer, director, member, employee, partner, agent or trustee of the General Partner, the Partnership or any of their Affiliates, in their capacity as such) shall take part in the operations, management or control (within the meaning of the Act) of the Partnership's business, transact any business in the Partnership's name or have the power to sign documents for or otherwise bind the Partnership. The transaction of any such business by the General Partner, any of its Affiliates or any officer, director, member, employee, partner, agent, representative, or trustee of the General Partner, the Partnership or any of their Affiliates, in their capacity as such, shall not affect, impair or eliminate the limitations on the liability of the Limited Partners or Assignees under this Agreement.

Section 8.3 Outside Activities of Limited Partners. Subject to any agreements entered into pursuant to Section 7.6.E hereof and any other agreements entered into by a Limited Partner or its Affiliates with the General Partner, the Partnership or a Subsidiary (including, without limitation, any employment agreement), any Limited Partner and any Assignee, officer, director, employee, agent, trustee, Affiliate, member

or shareholder of any Limited Partner shall be entitled to and may have business interests and engage in business activities in addition to those relating to the Partnership, including business interests and activities that are in direct or indirect competition with the Partnership or that are enhanced by the activities of the Partnership. Neither the Partnership nor any Partner shall have any rights by virtue of this Agreement in any business ventures of any Limited Partner or Assignee. Subject to such agreements, none of the Limited Partners nor any other Person shall have any rights by virtue of this Agreement or the partnership relationship established hereby in any business ventures of any other Person (other than the General Partner, to the extent expressly provided herein), and such Person shall have no obligation pursuant to this Agreement, subject to Section 7.6.E hereof and any other agreements entered into by a Limited Partner or its Affiliates with the General Partner, the Partnership or a Subsidiary, to offer any interest in any such business ventures to the Partnership, any Limited Partner or any such other Person, even if such opportunity is of a character that, if presented to the Partnership, any Limited Partner or such other Person, could be taken by such Person.

Section 8.4 Return of Capital. Except pursuant to the rights of Redemption set forth in Section 8.6 hereof, no Limited Partner shall be entitled to the withdrawal or return of its Capital Contribution, except to the extent of distributions made pursuant to this Agreement or upon termination of the Partnership as provided herein. Except to the extent provided in Article 6 hereof or otherwise expressly provided in this Agreement, no Limited Partner or Assignee shall have priority over any other Limited Partner or Assignee either as to the return of Capital Contributions or as to profits, losses or distributions.

Section 8.5 Adjustment Factor. The Partnership shall notify any Limited Partner that is a Qualifying Party, on request, of the then current Adjustment Factor or any change made to the Adjustment Factor.

Section 8.6 Redemption Rights of Qualifying Parties.

A. Subject to Section 11.6.D, a Qualifying Party, but no

other Limited Partner or Assignee, shall have the right (subject to the terms and conditions set forth herein) to require the Partnership to redeem (a "Redemption") all or a portion of the Partnership Common Units held by such Qualifying Party (such Partnership Common Units being hereafter "Tendered Units") in exchange for the Cash Amount payable on the Specified Redemption Date. Any Redemption shall be exercised pursuant to a Notice of Redemption delivered to the General Partner by such Qualifying Party (the "Tendering Party") when exercising the Redemption right. The Partnership's obligation to effect a Redemption, however, shall not arise or be binding against the Partnership (i) until and unless there has been a Declination and (ii) before the Business Day following the Cut-Off Date. Regardless of the binding or non-binding nature of a pending Redemption, a Tendering Party shall have no right to receive distributions with respect to any Tendered Units (other than the Cash Amount) paid after delivery of the Notice of Redemption, whether or not the Partnership Record Date for such distribution precedes or coincides with such delivery of the Notice of Redemption; provided, however, that in the event that the General Partner on behalf of the Partnership elects to fund the Cash Amount with the proceeds of an Offering Funding pursuant to Section 8.6.D hereof, the Tendering Party's right to receive distributions shall not be suspended as hereinbefore provided and such Tendering Party shall have the right to receive distributions actually made hereunder prior to the date of the closing of the Offering Funding the proceeds of which are used to pay the Cash Amount. In the event of a Redemption, the Cash Amount shall be delivered as a certified check payable to the Tendering Party or, in the General Partner's sole and absolute discretion, in immediately available funds. Notwithstanding anything to the contrary contained in this Section 8.6A, no right to require a Redemption shall be exercisable by a Qualifying Party prior to the earlier of (x) two years following the issuance of shares of common stock by the Parent REIT in an offering pursuant to Rule 144A under the Securities Act, or (y) 180 days following the effectiveness of a registration statement covering the sale of common stock of the Parent REIT sold in such offering pursuant to Rule 144A.

B. Notwithstanding the provisions of Section 8.6.A hereof, on or before the close of business on the Cut-Off Date, a REIT Party may, in its sole and absolute discretion but subject to the Ownership Limit and the transfer restrictions and other limitations of the Charter, elect to acquire, some or all of the Tendered Units from the Tendering Party (such percentage being referred to as the "Applicable Percentage") in exchange for the REIT Consideration. In making such election, the REIT Party shall act in a fair, equitable and reasonable manner that neither prefers one group or class of Qualifying Parties over another nor discriminates

against a group or class of Qualifying Parties. If the REIT Party so elects, on the Specified Redemption Date the Tendering Party shall sell the Applicable Percentage of the Tendered Units to the REIT Party in exchange for the REIT Consideration. The Tendering Party shall submit (i) such information, certification or affidavit as the Parent REIT may reasonably require in connection with the application of the Ownership Limit and other restrictions and limitations of the Charter to any such acquisition and (ii) such written representations, investment letters, legal opinions or other instruments necessary, in the view of the REIT Party to effect compliance with the Securities Act. In the event of a purchase of any Tendered Units by the REIT Party pursuant to this Section 8.6.B, the Tendering Party shall no longer have the right to cause the Partnership to effect a Redemption of such Tendered Units, and, upon notice to the Tendering Party by the REIT Party given on or before the close of business on the Cut-Off Date, that the REIT Party has elected to acquire some or all of the Tendered Units pursuant to this Section 8.6.B, the obligation of the Partnership to effect a Redemption of the Tendered Units as to which the notice by the REIT Party relates shall not accrue or arise. The REIT Consideration shall be delivered by the REIT Party as duly authorized, validly issued, fully paid and non-assessable REIT Shares and, if applicable, Rights, free of any pledge, lien, encumbrance or restriction, other than the Ownership Limit and other restrictions provided in the Charter, the Bylaws of the Parent REIT, the Securities Act and relevant state securities or "blue sky" laws. Neither any Tendering Party whose Tendered Units are acquired by the REIT Party pursuant to this Section 8.6.B, any Partner, any Assignee nor any other interested Person shall have any right to require or cause the Parent REIT to register, qualify or list any REIT Shares owned or held by such Person, whether or not such REIT Shares are issued pursuant to this Section 8.6.B, with the SEC, with any state securities commissioner, department or agency, under the Securities Act or the Exchange Act or with any stock exchange; provided, however, that this limitation shall not be in derogation of any registration or

similar rights granted pursuant to any other written agreement between the Parent REIT and any such Person. Notwithstanding any delay in such delivery, the Tendering Party shall be deemed the owner of such REIT Shares and Rights for all purposes, including, without limitation, rights to vote or consent, receive dividends, and exercise rights, as of the Specified Redemption Date. REIT Shares issued upon an acquisition of the Tendered Units by the Parent REIT pursuant to this Section 8.6.B may contain such legends regarding restrictions under the Securities Act and applicable state securities laws as the Parent REIT in good faith determines to be necessary or advisable in order to ensure compliance with such laws.

C. Notwithstanding the provisions of Section 8.6.A and 8.6.B hereof, no Tendering Party shall have any rights (including any right to a Redemption pursuant to Section 8.6A) under this Agreement that would otherwise be prohibited under the Charter with respect to the Ownership Limit. To the extent that any attempted Redemption or acquisition of the Tendered Units by the REIT Party pursuant to Section 8.6.B hereof would be in violation of this Section 8.6.C, it shall be null and void ab initio, and the Tendering Party shall not acquire any rights or economic interests in REIT Shares otherwise issuable by the Parent REIT under Section 8.6.B hereof.

D. To the extent that the REIT Party declines or fails to exercise its purchase rights for all Tendered Units pursuant to Section 8.6.B hereof following receipt of a Notice of Redemption (a "Declination"):

(1) The General Partner shall give notice of such Declination to the Tendering Party on or before the close of business on the Cut-Off Date. The failure of the General Partner to give notice of such Declination by the close of business on the Cut-Off Date shall itself constitute a Declination.

(2) Subject to Section 11.6.D, the Parent REIT on behalf of the Partnership may elect to raise funds for the payment of all or any percentage of the Cash Amount either (a) by contribution by a REIT Party of funds from the proceeds of a private placement or registered public offering (each, an "Offering Funding") by the Parent REIT of a number of REIT Shares or other securities of the Parent REIT ("Offering Funding Shares") or (b) from any other sources (including, but not limited to, the sale of any Property and the incurrence of additional Debt) available to the Partnership.

(3) If an Offering Funding has been elected by the General Partner, promptly upon the General Partner's receipt of the Notice of Redemption

and the General Partner giving notice of its Declination, the General Partner shall give notice (a "Single Funding Notice") to all Qualifying Parties then holding a Partnership Interest (or an interest therein) and having Redemption rights pursuant to this Section 8.6 and require that all such Qualifying Parties elect whether or not to effect a Redemption of their Partnership Common Units to be funded through an Offering Funding. In the event that any such Qualifying Party elects to effect such a Redemption, it shall give notice thereof and of the number of Partnership Common Units to be made subject thereto in writing to the General Partner within ten (10) Business Days after receipt of the Single Funding Notice, and such Qualifying Party shall be treated as a Tendering Party for all purposes of this Section 8.6. In the event that a Qualifying Party does not so elect, it shall be deemed to have waived its right to effect a Redemption; provided, however, that the General Partner shall not be required to acquire Partnership Common Units pursuant to this Section 8.6.D more than twice within a calendar year from a particular Qualifying Party.

Any proceeds from an Offering Funding that are in excess of the aggregate Cash Amount paid to all Tendering Parties pursuant to this Section 8.6.D shall be for the sole benefit of the Parent REIT. The Parent REIT shall make a Capital Contribution of such amounts to the Partnership for an additional General Partner Interest. Any such contribution shall entitle the General Partner to an equitable Percentage Interest adjustment.

E. Notwithstanding the provisions of Section 8.6.B hereof, the REIT Party shall not, under any circumstances, elect to acquire

Tendered Units in exchange for the REIT Consideration if such exchange would be prohibited under the Charter.

F. Notwithstanding anything herein to the contrary (but subject to Section 8.6.C hereof), with respect to any Redemption (or any tender of Partnership Common Units for Redemption if the Tendered Units are acquired by a REIT Party pursuant to Section 8.6.B hereof) pursuant to this Section 8.6:

(1) All Partnership Common Units acquired by a REIT Party pursuant to Section 8.6.B hereof may, at the election of the REIT Party, be converted into and deemed to be a General Partner Interest comprised of the same number of Partnership Common Units.

(2) Subject to the Ownership Limit, no Tendering Party may effect a Redemption for less than five hundred (500) Partnership Common Units or, if such Tendering Party holds (as a Limited Partner or, economically, as an Assignee) less than five hundred (500) Partnership Common Units, all of the Partnership Common Units held by such Tendering Party.

(3) Each Tendering Party (a) may effect a Redemption only once in each fiscal quarter of a twelve-month period, unless otherwise permitted by the General Partner, in its sole and absolute discretion and (b) may not effect a Redemption during the period after the Partnership Record Date with respect to a distribution and before the record date established by the Parent REIT for a distribution to its shareholders of some or all of its portion of such Partnership distribution.

(4) Notwithstanding anything herein to the contrary, with respect to any Redemption or acquisition of Tendered Units by a REIT Party pursuant to Section 8.6.B hereof, in the event that the General Partner gives notice to all Limited Partners (but excluding any Assignees) then owning Partnership Interests (a "Primary Offering Notice") that the Parent REIT desires to effect a primary offering of its equity securities, then, unless the General Partner otherwise consents, commencement of the actions denoted in Section 8.6.D hereof as to an Offering Funding, if any, with respect to any Notice of Redemption thereafter received, whether or not the Tendering Party is a Limited Partner, may be delayed until the earlier of (a) the completion of the primary offering or (b) ninety (90) days following the giving of the Primary Offering Notice.

(5) Without the consent of the General Partner, no Tendering Party may effect a Redemption within ninety (90) days following the closing of any prior Offering Funding.

(6) The consummation of such Redemption (or an acquisition of Tendered Units by a REIT Party pursuant to Section 8.6.B hereof, as the case may be) shall be subject to the expiration or termination of the applicable waiting period, if any, under the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended.

(7) Subject to Section 8.6.A, the Tendering Party shall continue to own (subject, in the case of an Assignee, to the provision of Section 11.5 hereof) all Partnership Common Units subject to any Redemption, and be treated as a Limited Partner or an Assignee, as applicable, with respect to such Partnership Common Units for all purposes of this Agreement, until such Partnership Common Units are either paid for by the Partnership pursuant to Section 8.6.A hereof or transferred to a REIT Party and paid for, by the issuance of the REIT Shares, pursuant to Section 8.6.B hereof on the Specified Redemption Date. Until a Specified Redemption Date and an acquisition of the Tendered Units by a REIT Party pursuant to Section 8.6.B hereof, the Tendering Party shall have no rights as a shareholder of the Parent REIT with respect to the REIT Shares issuable in connection with such acquisition.

(8) Each Limited Partner covenants and agrees with the REIT Party that all Tendered Units shall

be delivered to the appropriate REIT Party free and clear of all liens, claims and encumbrances whatsoever and should any such liens, claims and/or encumbrances exist or arise with respect to such Tendered Units, the REIT Party shall be under no obligation to acquire the same. Each Limited Partner further agrees that, in the event any state or local property transfer tax is payable as a result of the transfer of its Tendered Units to a REIT Party (or its designee), such Limited Partner shall assume and pay such transfer tax.

(9) No Limited Partner may require a Redemption hereunder to the extent that the issuance of REIT Consideration pursuant to Section 8.6.B hereof would violate ownership limitations contained in the Charter or would violate any REIT Requirement (notwithstanding that any such Tendered Units could otherwise be acquired for cash pursuant to Section 8.6.A hereof).

(10) No Tendering Party may require a Redemption hereunder if the issuance of REIT Consideration would be likely to cause the acquisition of such REIT Consideration by such Tendering Party to be "integrated" with any other distribution of common stock of the Parent REIT or of Limited Partnership Interests for purposes of complying with the Securities Act.

For purposes of determining compliance with the restrictions set forth in this Section 8.6.F, all Partnership Common Units beneficially owned by a Related Party of a Tendering Party shall be considered to be owned or held by such Tendering Party.

G. In connection with an exercise of Redemption rights pursuant to this Section 8.6, the Tendering Party shall submit the following to the General Partner, in addition to the Notice of Redemption:

(1) A written affidavit, dated the same date as the Notice of Redemption, (a) disclosing the actual and constructive ownership, as determined for purposes of Code Sections 856(a)(6) and 856(h), of REIT Shares by (i) such Tendering Party and (ii) any Related Party and (b) representing that, after giving effect to the Redemption or an acquisition of the Tendered Units by the General Partner pursuant to Section 8.6.B hereof, neither the Tendering Party nor any Related Party will own REIT Shares in excess of the Ownership Limit;

(2) A written representation that neither the Tendering Party nor any Related Party has any intention to acquire any additional REIT Shares prior to the closing of the Redemption or an acquisition of the Tendered Units by a REIT Party pursuant to Section 8.6.B hereof on the Specified Redemption Date; and

(3) An undertaking to certify, at and as a condition to the closing of (i) the Redemption or (ii) the acquisition of the Tendered Units by a REIT Party pursuant to Section 8.6.B hereof on the Specified Redemption Date, that either (a) the actual and constructive ownership of REIT Shares by the Tendering Party and any Related Party remain unchanged from that disclosed in the affidavit required by Section 8.6.G(1) or (b) after giving effect to the Redemption or an acquisition of the Tendered Units by a REIT Party pursuant to Section 8.6.B hereof, neither the Tendering Party nor any Related Party shall own REIT Shares in violation of the Ownership Limit.

Section 8.7 Partnership Right to Call Limited Partner Interests. Notwithstanding any other provision of this Agreement, on and after the date on which the aggregate Percentage Interests of the Limited Partners are less than one percent (1%), the Partnership shall have the right, but not the obligation, from time to time and at any time to redeem any and all outstanding Limited Partner Interests by treating any Limited Partner as a Tendering Party who has delivered a Notice of Redemption pursuant to Section 8.6 hereof for the amount of Partnership Common Units to be specified by the General Partner, in its sole and absolute discretion, by notice to such Limited Partner that the Partnership has elected to exercise its rights under this Section 8.7. Such notice given by the General Partner to a Limited Partner pursuant to this Section 8.7 shall be treated as if it were a Notice of Redemption delivered to

the General Partner by such Limited Partner. For purposes of this Section 8.7, (a) any Limited Partner (whether or not otherwise a Qualifying Party) may, in the General Partner's sole and absolute discretion, be treated as a Qualifying Party that is a Tendering Party and (b) the provisions of Sections 8.6.F(2), 8.6.F(3) and 8.6.F(5) hereof shall not apply, but the remainder of Section 8.6 hereof shall apply, mutatis mutandis.

Section 8.8 Mergers.

The General Partner shall not permit the Partnership to be a party to any consolidation, merger, combination or other transaction pursuant to which the Partnership Common Units are converted or changed into or exchanged for partnership interests and/or other securities of another operating partnership in an UPREIT or similar structure, in each case without the affirmative vote of the holders of at least a majority of the outstanding Paired Common Units, voting separately as a class, unless upon consummation of any such consolidation, merger, combination or other transaction, the holders of Paired Common Units shall receive shares of stock or beneficial interest or other equity securities with preferences, rights and privileges not materially inferior to the preferences, rights and privileges of the Special Voting Preferred Stock (which shares of stock or beneficial interest or other equity securities shall be issued by the parent REIT of such operating partnership). This Section 8.8 shall not be amended or modified without the prior consent of the holders of at least a majority of the Paired Common Units.

ARTICLE IX
BOOKS, RECORDS, ACCOUNTING AND REPORTS

Section 9.1 Records and Accounting.

A. The General Partner shall keep or cause to be kept at the principal office of the Partnership those records and documents required to be maintained by the Act and other books and records deemed by the General Partner to be appropriate with respect to the Partnership's business, including, without limitation, all books and records necessary to provide to the Limited Partners any information, lists and copies of documents required to be provided pursuant to Section 8.5.A or Section 9.3 hereof. Any records maintained by or on behalf of the Partnership in the regular course of its business may be kept on, or be in the form for,

magnetic tape, photographs, micrographics or any other information storage device, provided that the records so maintained are convertible into clearly legible written form within a reasonable period of time.

B. The books of the Partnership shall be maintained, for financial and tax reporting purposes, on an accrual basis in accordance with generally accepted accounting principles, or on such other basis as the General Partner determines to be necessary or appropriate. To the extent permitted by sound accounting practices and principles, the Partnership and the General Partner may operate with integrated or consolidated accounting records, operations and principles.

Section 9.2 Partnership Year. The Partnership Year of the Partnership shall be the calendar year.

Section 9.3 Reports.

A. As soon as practicable, but in no event later than one hundred five (105) days after the close of each Partnership Year, the General Partner shall cause to be mailed to each Limited Partner of record as of the close of the Partnership Year an annual report containing financial statements of the Partnership, or of the General Partner if such statements are prepared solely on a consolidated basis with the General Partner, for such Partnership Year, presented in accordance with generally accepted accounting principles, such statements to be audited by a nationally recognized firm of independent public accountants selected by the General Partner.

B. As soon as practicable, but in no event later than one hundred five (105) days after the close of each calendar quarter (except the last calendar quarter of each year), the General Partner shall cause to be mailed to each Limited Partner of record as of the last day of the calendar quarter a report containing unaudited financial statements of the Partnership,

or of the General Partner if such statements are prepared solely on a consolidated basis with the General Partner, and such other information as may be required by applicable law or regulation or as the General Partner determines to be appropriate.

C. At the request of any Limited Partner, the General Partner shall provide access to the books, records and workpapers upon which the reports required by this Section 9.3 are based, to the extent required by the Act.

ARTICLE X
TAX MATTERS

Section 10.1 Preparation of Tax Returns. The General Partner shall arrange for the preparation and timely filing of all returns with respect to Partnership income, gains, deductions, losses and other items required of the Partnership for federal and state income tax purposes and shall use all reasonable effort to furnish, within ninety (90) days of the close of each taxable year, the tax information reasonably required by Limited Partners for federal and state income tax reporting purposes. The Limited Partners shall promptly provide the General Partner with such information relating to the Contributed Properties, including tax basis and other relevant information, as may be reasonably requested by the General Partner from time to time.

Section 10.2 Tax Elections. Except as otherwise provided herein, the General Partner shall, in its sole and absolute discretion, determine whether to make or revoke any available election pursuant to the Code, including, but not limited to, the election under Code Section 754.

Section 10.3 Tax Matters Partner.

A. The General Partner shall be the "tax matters partner" of the Partnership for federal income tax purposes. The tax matters partner shall receive no compensation for its services. All third-party costs and expenses incurred by the tax matters partner in performing its duties as such (including legal and accounting fees and expenses) shall be borne by the Partnership in addition to any reimbursement pursuant to Section 7.4 hereof. Nothing herein shall be construed to restrict the Partnership from engaging an accounting

firm to assist the tax matters partner in discharging its duties hereunder, so long as the compensation paid by the Partnership for such services is reasonable. At the request of any Limited Partner, the General Partner agrees to consult with such Limited Partner with respect to the preparation and filing of any returns and with respect to any subsequent audit or litigation relating to such returns; provided, however, that the filing of such returns shall be in the sole and absolute discretion of the General Partner.

B. The tax matters partner is authorized, but not required:

(1) to enter into any settlement with the IRS with respect to any administrative or judicial proceedings for the adjustment of Partnership items required to be taken into account by a Partner for income tax purposes (such administrative proceedings being referred to as a "tax audit" and such judicial proceedings being referred to as "judicial review"), and in the settlement agreement the tax matters partner may expressly state that such agreement shall bind all Partners, except that such settlement agreement shall not bind any Partner (i) who (within the time prescribed pursuant to the Code and Regulations) files a statement with the IRS providing that the tax matters partner shall not have the authority to enter into a settlement agreement on behalf of such Partner or (ii) who is a "notice partner" (as defined in Code Section 6231) or a member of a "notice group" (as defined in Code Section 6223(b)(2));

(2) in the event that a notice of a final administrative adjustment at the Partnership level of any item required to be taken into account by a Partner for tax purposes (a "final adjustment") is mailed to the tax matters partner, to seek

judicial review of such final adjustment, including the filing of a petition for readjustment with the United States Tax Court or the United States Claims Court, or the filing of a complaint for refund with the District Court of the United States for the district in which the Partnership's principal place of business is located;

(3) to intervene in any action brought by any other Partner for judicial review of a final adjustment;

(4) to file a request for an administrative adjustment with the IRS at any time and, if any part of such request is not allowed by the IRS, to file an appropriate pleading (petition or complaint) for judicial review with respect to such request;

(5) to enter into an agreement with the IRS to extend the period for assessing any tax that is attributable to any item required to be taken into account by a Partner for tax purposes, or an item affected by such item; and

(6) to take any other action on behalf of the Partners in connection with any tax audit or judicial review proceeding to the extent permitted by applicable law or regulations.

The taking of any action and the incurring of any expense by the tax matters partner in connection with any such proceeding, except to the extent required by law, is a matter in the sole and absolute discretion of the tax matters partner and the provisions relating to indemnification of the General Partner set forth in Section 7.7 hereof shall be fully applicable to the tax matters partner in its capacity as such.

Section 10.4 Withholding. Each Limited Partner hereby authorizes the Partnership to withhold from or pay on behalf of or with respect to such Limited Partner any amount of federal, state, local or foreign taxes that the General Partner determines that the Partnership is required to withhold or pay with respect to any amount distributable or allocable to such Limited Partner pursuant to this Agreement, including, without limitation, any taxes required to be withheld or paid by the Partnership pursuant to Code Section 1441, Code Section 1442, Code Section 1445 or Code Section 1446. Any amount paid on behalf of or with respect to a Limited Partner shall constitute a loan by the Partnership to such Limited Partner, which loan shall be repaid by such Limited Partner within fifteen (15) days after notice from the General Partner that such payment must be

made unless (i) the Partnership withholds such payment from a distribution that would otherwise be made to the Limited Partner or (ii) the General Partner determines, in its sole and absolute discretion, that such payment may be satisfied out of the Available Funds of the Partnership that would, but for such payment, be distributed to the Limited Partner. Each Limited Partner hereby unconditionally and irrevocably grants to the Partnership a security interest in such Limited Partner's Partnership Interest to secure such Limited Partner's obligation to pay to the Partnership any amounts required to be paid pursuant to this Section 10.4. In the event that a Limited Partner fails to pay any amounts owed to the Partnership pursuant to this Section 10.4 when due, the General Partner may, in its sole and absolute discretion, elect to make the payment to the Partnership on behalf of such defaulting Limited Partner, and in such event shall be deemed to have lent such amount to such defaulting Limited Partner and shall succeed to all rights and remedies of the Partnership as against such defaulting Limited Partner (including, without limitation, the right to receive distributions). Any amounts payable by a Limited Partner hereunder shall bear interest at the base rate on corporate loans at large United States money center commercial banks, as published from time to time in The Wall Street Journal, plus four (4) percentage points (but not higher than the maximum lawful rate) from the date such amount is due (i.e., fifteen (15) days after demand) until such amount is paid in full. Each Limited Partner shall take such actions as the Partnership or the General Partner shall request in order to perfect or enforce the security interest created hereunder.

Section 10.5 Organizational Expenses. The Partnership shall elect to deduct expenses, if any, incurred by it in organizing the Partnership ratably over a 60 month period as provided in Section 709 of the Code.

ARTICLE XI
TRANSFERS AND WITHDRAWALS

Section 11.1 Transfer.

A. No part of the interest of a Partner shall be subject to the claims of any creditor, to any spouse for alimony or support, or to legal process, and may not be voluntarily or involuntarily alienated or encumbered except as may be specifically provided for in this Agreement.

B. No Partnership Interest shall be Transferred, in whole or in part, except in accordance with the terms and conditions set forth in this Article 11. Any Transfer or purported Transfer of a Partnership Interest not made in accordance with this Article 11 shall be null and void ab initio.

C. Notwithstanding the other provisions of this Article 11 (other than Section 11.6.D hereof), the Partnership Interests of the General Partner may be Transferred, in whole or in part, at any time or from time to time, to any Person that is, at the time of such Transfer, a Qualified REIT Subsidiary. Any transferee of the entire General Partner Interest pursuant to this Section 11.1.C shall automatically become, without further action or Consent of any Limited Partners, the sole general partner of the Partnership, subject to all the rights, privileges, duties and obligations under this Agreement and the Act relating to a general partner. Upon any Transfer permitted by this Section 11.1.C, the transferor Partner shall be relieved of all its obligations under this Agreement. The provisions of Section 11.2.B (other than the last sentence thereof), 11.3, 11.4.A and 11.5 hereof shall not apply to any Transfer permitted by this Section 11.1.C.

D. No Transfer of any Partnership Interest may be made to a lender to the Partnership or any Person who is related (within the meaning of Section 1.752-4(b) of the Regulations) to any lender to the Partnership whose loan constitutes a Nonrecourse Liability, without the consent of the General Partner in its sole and absolute discretion; provided that as a condition to such consent, the lender will be required to enter into an arrangement with the Partnership and the General Partner to redeem or exchange for the REIT Consideration any Partnership Units in which a security interest is held by such lender concurrently with such time as such lender would be deemed to be a partner in the Partnership for purposes of allocating liabilities to such lender under Section 752 of the Code.

Section 11.2 Transfer of General Partner's Partnership Interest.

A. The General Partner may not Transfer any of its General Partner Interest or withdraw from the Partnership except as provided in Sections 11.1.C, 11.2.B and 11.2.C hereof. In every instance where the General Partner's ability to merge, transfer its General Partner Interest, or withdraw from the Partnership is limited pursuant to this Section 11.2, the Parent REIT's ability to merge or transfer its stock of the General Partner shall be similarly limited.

B. Except as set forth in Section 11.1.C above and Section 11.2.C below, the General Partner shall not withdraw from the Partnership and shall not Transfer all or any portion of its interest in the Partnership (whether by sale, disposition, statutory merger or consolidation, liquidation or otherwise) without the Consent of the Limited Partners, which Consent may be given or withheld in the sole and absolute discretion of the Limited Partners. Upon any Transfer of such a Partnership Interest pursuant to the Consent of the Limited Partners and otherwise in accordance with the provisions of this Section 11.2.B, the transferee shall become a successor General Partner for all purposes herein, and shall be vested with the powers and rights of the transferor General Partner, and shall be liable for all obligations and responsible for all duties of the General Partner, once such transferee has executed such instruments as may be necessary to effectuate such admission and to confirm the agreement of such transferee to be bound by all the terms and provisions of this Agreement with respect to the Partnership Interest so acquired. It is a condition to any Transfer otherwise permitted hereunder that the transferee assumes, by operation of law or express agreement, all of the obligations of the transferor General Partner under this Agreement with respect to such Transferred Partnership Interest, and such Transfer shall

relieve the transferor General Partner of its obligations under this Agreement without the Consent of the Limited Partners. In the event that the General Partner withdraws from the Partnership, in violation of this Agreement or otherwise, or otherwise dissolves or terminates, or upon the bankruptcy of the General Partner, a Majority in Interest of the Limited Partners may elect to continue the Partnership business by selecting a successor General Partner in accordance with the Act.

C. Notwithstanding Section 11.2.B, the General Partner may merge with another entity if immediately after such merger substantially all of the assets of the surviving entity, other than the General Partner Interest held by the General Partner, are contributed to the Partnership as a Capital Contribution in exchange for Partnership Units.

Section 11.3 Transfer of Limited Partners' Partnership Interests.

A. General. No Limited Partner shall Transfer all or any portion of its Partnership Interest to any transferee without the consent of the General Partner, which consent may be withheld in its sole and absolute discretion, provided, however, that subject to Section 11.3E hereof, Arbor Commercial Mortgage, LLC may distribute some or all of its Partnership Interests to its owners, and any Limited Partner that is an individual may transfer all or any portion of his Partnership Interest to his immediate family or a trust for his immediate family without the consent of the General Partner, provided, further, that the General Partner has the right not to admit such transferee as a Limited Partner in the Partnership.

B. Conditions to Transfer Consent. Without limiting the generality of Section 11.3.A hereof, it is expressly understood and agreed that the General Partner will not consent to any Transfer of all or any portion of any Partnership Interest pursuant to Section 11.3.A above unless such Transfer meets each of the following conditions:

(1) Qualified Transferee. Such Transfer is made only to a single Qualified Transferee; provided, however, that, for such purposes, all Qualified Transferees that are Affiliates, or that comprise investment accounts or funds managed by a single Qualified Transferee and its Affiliates, shall be considered together to be a single Qualified Transferee.

(2) Assumption of Obligations. The transferee in such Transfer assumes by operation of law or express agreement all of the obligations of the transferor Limited Partner under this Agreement with respect to such Transferred Partnership Interest; provided, that no such Transfer (unless made pursuant to a statutory merger or consolidation wherein all obligations and liabilities of the transferor Partner are assumed by a successor corporation by operation of law) shall relieve the transferor Partner of its

obligations under this Agreement without the approval of the General Partner, in its sole and absolute discretion. Notwithstanding the foregoing, any transferee of any Transferred Partnership Interest shall be subject to any and all ownership limitations contained in the Charter that may limit or restrict such transferee's ability to exercise its Redemption rights, including, without limitation, the Ownership Limit. Any transferee, whether or not admitted as a Substituted Limited Partner, shall take subject to the obligations of the transferor hereunder. Unless admitted as a Substituted Limited Partner, no transferee, whether by a voluntary Transfer, by operation of law or otherwise, shall have any rights hereunder, other than the rights of an Assignee as provided in Section 11.5 hereof.

(3) Effective Date. Such Transfer is effective as of the first day of a fiscal quarter of the Partnership.

C. Incapacity. If a Limited Partner is subject to Incapacity, the executor, administrator, trustee, committee, guardian, conservator or receiver of such Limited Partner's estate shall have all the rights of a Limited Partner, but not more rights than those enjoyed by other

Limited Partners, for the purpose of settling or managing the estate, and such power as the Incapacitated Limited Partner possessed to Transfer all or any part of its interest in the Partnership. The Incapacity of a Limited Partner, in and of itself, shall not dissolve or terminate the Partnership.

D. Opinion of Counsel. In connection with any proposed Transfer of a Limited Partner Interest, the General Partner shall have the right to receive an opinion of counsel reasonably satisfactory to it to the effect that the proposed Transfer may be effected without registration under the Securities Act and will not otherwise violate any federal or state securities laws or regulations applicable to the Partnership or the Partnership Interests Transferred.

E. Adverse Tax Consequences. No Transfer by a Limited Partner of its Partnership Interests (including any Redemption, any other acquisition of Partnership Units by the Partnership or a REIT Party) may be made to or by any person if (i) in the opinion of legal counsel for the Partnership, it would result in the Partnership being treated as an association taxable as a corporation or would result in a termination of the Partnership under Code Section 708, or (ii) such Transfer would be effectuated through an "established securities market" or a "secondary market (or the substantial equivalent thereof)" within the meaning of Code Section 7704.

Section 11.4 Substituted Limited Partners.

A. A transferee of the interest of a Limited Partner pursuant to a Transfer consented to by the General Partner pursuant to Section 11.3.A may be admitted as a Substituted Limited Partner only with the consent of the General Partner, which consent may be given or withheld by the General Partner in its sole and absolute discretion. The failure or refusal by the General Partner to permit a transferee of any such interests to become a Substituted Limited Partner shall not give rise to any cause of action against the Partnership or the General Partner. Subject to the foregoing, an Assignee shall not be admitted as a Substituted Limited Partner until and unless it furnishes to the General Partner (i) evidence of acceptance, in form and substance satisfactory to the General Partner, of all the terms, conditions and applicable obligations of this Agreement, (ii) a counterpart signature page to this Agreement executed by such Assignee and (iii) such other documents and instruments as may be required or advisable, in the sole and absolute discretion of the General Partner, to effect such Assignee's admission as a Substituted Limited Partner.

B. A transferee who has been admitted as a Substituted Limited Partner in accordance with this Article 11 shall have all the rights and powers and be subject to all the restrictions and liabilities of a Limited Partner under this Agreement.

C. Upon the admission of a Substituted Limited Partner, the General Partner shall amend Exhibit A to reflect the name, address and number of Partnership Units of such Substituted Limited Partner and to eliminate or adjust, if necessary, the name, address and number of Partnership Units of the predecessor of such Substituted Limited Partner.

Section 11.5 Assignees. If the General Partner, in its sole and absolute discretion, does not consent to the admission of any transferee of any Partnership Interest as a Substituted Limited Partner in connection with a transfer permitted by the General Partner pursuant to Section 11.3.A, such transferee shall be considered an Assignee for purposes of this Agreement. An Assignee shall be entitled to all the rights of an assignee of a limited partnership interest under the Act, including the right to receive distributions from the Partnership and the share of Net Income, Net Losses and other items of income, gain, loss, deduction and credit of the Partnership attributable to the Partnership Units assigned to such transferee and the rights to Transfer the Partnership Units only in accordance with the provisions of this Article 11, but shall not be deemed to be a holder of Partnership Units for any other purpose under this Agreement, and shall not be entitled to effect a Consent or vote or effect a Redemption with respect to such Partnership Units on any matter presented to the Limited Partners for approval (such right to Consent or vote or effect a Redemption, to the extent provided in this Agreement or under the Act, fully remaining with the transferor Limited Partner). In the event that any such transferee desires to make a further assignment of any such Partnership Units, such transferee shall be subject to all the provisions of this Article 11 to the

same extent and in the same manner as any Limited Partner desiring to make an assignment of Partnership Units.

Section 11.6 General Provisions.

A. No Limited Partner may withdraw from the Partnership other than as a result of a permitted Transfer of all of such Limited Partner's Partnership Units in accordance with this Article 11, with respect to which the transferee becomes a Substituted Limited Partner, or pursuant to a redemption (or acquisition by the General Partner) of all of its Partnership Units pursuant to a Redemption under Section 8.6 hereof and/or pursuant to any Partnership Unit Designation.

B. Any Limited Partner who shall Transfer all of its Partnership Units in a Transfer (i) consented to by the General Partner pursuant to this Article 11 where such transferee was admitted as a Substituted Limited Partner, (ii) pursuant to the exercise of its rights to effect a redemption of all of its Partnership Units pursuant to a Redemption under Section 8.6 hereof and/or pursuant to any Partnership Unit Designation or (iii) to the General Partner, whether or not pursuant to Section 8.6.B hereof, shall cease to be a Limited Partner.

C. If any Partnership Unit is Transferred in compliance with the provisions of this Article 11, or is redeemed by the Partnership, or acquired by the General Partner pursuant to Section 8.6 hereof, on any day other than the first day of a Partnership Year, then Net Income, Net Losses, each item thereof and all other items of income, gain, loss, deduction and credit attributable to such Partnership Unit for such Partnership Year shall be allocated to the transferor Partner or the Tendering Party, as the case may be, and, in the case of a Transfer or assignment other than a Redemption, to the transferee Partner, by taking into account their varying interests during the Partnership Year in accordance with Code Section 706(d), using the "interim closing of the books" method or another permissible method selected by the General Partner. Solely for purposes of making such allocations, each of such items for the calendar month in which a Transfer occurs shall be allocated to the transferee Partner and none of such items for the calendar month in which a Transfer or a Redemption occurs shall be allocated to the transferor Partner or the Tendering Party, as the case may be, if such Transfer occurs on or before the fifteenth (15th) day of the month, otherwise such items shall be allocated to the transferor. All distributions of Available Cash attributable to such Partnership Unit with respect to which the Partnership Record Date is before the date of such Transfer, assignment or Redemption shall be made to the transferor Partner or the Tendering Party, as the case may be, and, in the case of a Transfer other than a Redemption, all distributions of Available Cash thereafter attributable to such Partnership Unit shall be made to the transferee Partner.

D. In no event may any Transfer or assignment of a Partnership Interest by any Partner (including any Redemption, any acquisition of Partnership Units by the General Partner or any other acquisition of Partnership Units by the Partnership) be made (i) to any person or entity who lacks the legal right, power or capacity to own a Partnership Interest; (ii) in violation of applicable law; (iii) of any component portion of a Partnership Interest, such as the Capital Account, or rights to distributions, separate and apart from all other components of a Partnership Interest; (iv) in the event that such Transfer would cause the Parent REIT to cease

to comply with the REIT Requirements; (v) if such Transfer would, in the opinion of counsel to the Partnership, Parent REIT or the General Partner, cause a termination of the Partnership for federal or state income tax purposes (except as a result of the Redemption (or acquisition by a REIT Party) of all Partnership Common Units held by all Limited Partners); (vi) if such Transfer would, in the opinion of legal counsel to the Partnership, cause the Partnership to cease to be classified as a partnership for federal income tax purposes (except as a result of the Redemption (or acquisition by a REIT Party) of all Partnership Common Units held by all Limited Partners); (vii) if such Transfer would 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 ERISA Section 3(14)) or a "disqualified person" (as defined in Code Section 4975(c)); (viii) if such Transfer would, in the opinion of legal counsel to the Partnership, cause any portion of the assets of the Partnership to constitute assets of any employee benefit plan pursuant to Department of Labor Regulations Section 2510.2-101; (ix) if such Transfer requires the registration of such Partnership

Interest pursuant to any applicable federal or state securities laws; (x) if such Transfer causes the Partnership to become a "publicly traded partnership," as such term is defined in Code Section 469(k)(2) or Code 7704(b); (xi) if such Transfer causes the Partnership (as opposed to the General Partner) to become a reporting company under the Exchange Act; or (xii) if such Transfer subjects the Partnership to regulation under the Investment Company Act of 1940, the Investment Advisors Act of 1940 or ERISA, each as amended.

ARTICLE XII
ADMISSION OF PARTNERS

Section 12.1 Admission of Successor General Partner. A successor to all of the General Partner's General Partner Interest pursuant to Section 11.2 hereof who is proposed to be admitted as a successor General Partner shall be admitted to the Partnership as the General Partner, effective immediately prior to such Transfer. Any such successor shall carry on the business of the Partnership without dissolution. In each case, the admission shall be subject to the successor General Partner executing and delivering to the Partnership an acceptance of all of the terms and conditions of this Agreement and such other documents or instruments as may be required to effect the admission.

Section 12.2 Admission of Additional Limited Partners.

A. After the date hereof, a Person (other than an existing Partner) who makes a Capital Contribution to the Partnership in accordance with this Agreement shall be admitted to the Partnership as an Additional Limited Partner only upon furnishing to the General Partner (i) evidence of acceptance, in form and substance satisfactory to the General Partner, of all of the terms and conditions of this Agreement, including, without limitation, the power of attorney granted in Section 2.4 hereof, (ii) a counterpart signature page to this Agreement executed by such Person and (iii) such other documents or instruments as may be required in the sole and absolute discretion of the General Partner in order to effect such Person's admission as an Additional Limited Partner.

B. Notwithstanding anything to the contrary in this Section 12.2, no Person shall be admitted as an Additional Limited Partner without the consent of the General Partner, which consent may be given or withheld in the General Partner's sole and absolute discretion. The admission of any Person as an Additional Limited Partner shall become effective on the date upon which the name of such Person is recorded on the books and records of the Partnership, following the consent of the General Partner to such admission.

C. If any Additional Limited Partner is admitted to the Partnership on any day other than the first day of a Partnership Year, then Net Income, Net Losses, each item thereof and all other items of income, gain, loss, deduction and credit allocable among Partners and Assignees for such Partnership Year shall be allocated pro rata among such Additional Limited Partner and all other Partners and Assignees by taking into account their varying interests during the Partnership Year in accordance with Code Section 706(d), using the "interim closing of the books" method or another permissible method selected by the General Partner. Solely for purposes of making such allocations, each of such items for the calendar month in which an admission of any Additional Limited Partner occurs shall be allocated among all the Partners and Assignees including such Additional Limited Partner, in accordance with the principles described in Section 11.6.C hereof. All distributions of Available Cash with respect to which the Partnership Record Date is before the date of such

admission shall be made solely to Partners and Assignees other than the Additional Limited Partner, and all distributions of Available Cash thereafter shall be made to all the Partners and Assignees including such Additional Limited Partner.

Section 12.3 Amendment of Agreement and Certificate of Limited Partnership. For the admission to the Partnership of any Partner, the General Partner shall take all steps necessary and appropriate under the Act to amend the records of the Partnership and, if necessary, to prepare as soon as practical an amendment of this Agreement (including an amendment of Exhibit A) and, if required by law, shall prepare and file an amendment to the Certificate and may for this purpose exercise the power of attorney granted pursuant to Section 2.4 hereof.

Section 12.4 Limit on Number of Partners. Unless otherwise permitted by the General Partner, no Person shall be admitted to the Partnership as an Additional Limited Partner if the effect of such admission would be to cause the Partnership to have a number of Partners (including as Partners for this purpose those Persons indirectly owning an interest in the Partnership through another partnership, a limited liability company, a subchapter S corporation or a grantor trust) that would cause the Partnership to become a reporting company under the Exchange Act.

ARTICLE XIII
DISSOLUTION, LIQUIDATION AND TERMINATION

Section 13.1 Dissolution. The Partnership shall not be dissolved by the admission of Additional Limited Partners or by the admission of a successor General Partner in accordance with the terms of this Agreement. Upon the withdrawal of the General Partner, any successor General Partner shall continue the business of the Partnership without dissolution. However, the Partnership shall dissolve, and its affairs shall be wound up, upon the first to occur of any of the following (each a "Liquidating Event"):

A. an event of withdrawal, as defined in the Act (including, without limitation, bankruptcy), of the sole General Partner unless, within ninety (90) days after the withdrawal, a Majority in Interest of the remaining Limited Partners agree in writing, in their sole and absolute discretion, to continue the business of the Partnership and to the appointment, effective as of the date of withdrawal, of a successor General Partner;

B. an election to dissolve the Partnership made by the General Partner in its sole and absolute discretion, with or without the Consent of the Limited Partners;

C. entry of a decree of judicial dissolution of the Partnership pursuant to the provisions of the Act;

D. the occurrence of a Terminating Capital Transaction; or

E. the Redemption (or acquisition by the General Partner) of all Partnership Units other than Partnership Units held by the General Partner.

Section 13.2 Winding Up.

A. Upon the occurrence of a Liquidating Event, the Partnership shall continue solely for the purposes of winding up its affairs in an orderly manner, liquidating its assets and satisfying the claims of its creditors and Partners. After the occurrence of a Liquidating Event, no Partner shall take any action that is inconsistent with, or not necessary to or appropriate for, the winding up of the Partnership's business and affairs. The General Partner (or, in the event that there is no remaining General Partner or the General Partner has dissolved, become bankrupt within the meaning of the Act or ceased to operate, any Person elected by a Majority in Interest of the Limited Partners (the General Partner or such other Person being referred to herein as the "Liquidator")) shall be responsible for overseeing the winding up and dissolution of the Partnership and

shall take full account of the Partnership's liabilities and property, and the Partnership property shall be liquidated as promptly as is consistent with obtaining the fair value thereof, and the proceeds therefrom (which may, to the extent determined by the General Partner, include shares of stock in the General Partner) shall be applied and distributed in the following order:

(1) First, to the satisfaction of all of the Partnership's debts and liabilities to creditors other than the Partners and their Assignees (whether by payment or the making of reasonable provision for payment thereof);

(2) Second, to the satisfaction of all of the Partnership's debts and liabilities to the General Partner (whether by payment or the making of reasonable provision for payment thereof), including, but not limited to, amounts

due as reimbursements under Section 7.4 hereof;

(3) Third, to the satisfaction of all of the Partnership's debts and liabilities to the other Partners and any Assignees (whether by payment or the making of reasonable provision for payment thereof); and

(4) Subject to the terms of any Partnership Unit Designation, the balance, if any, to the General Partner, the Limited Partners and any Assignees in accordance with and in proportion to their positive Capital Account balances, after giving effect to all contributions, distributions and allocations for all periods.

The General Partner shall not receive any additional compensation for any services performed pursuant to this Article 13.

B. Notwithstanding the provisions of Section 13.2.A hereof that require liquidation of the assets of the Partnership, but subject to the order of priorities set forth therein, if prior to or upon dissolution of the Partnership the Liquidator determines that an immediate sale of part or all of the Partnership's assets would be impractical or would cause undue loss to the Partners, the Liquidator may, in its sole and absolute discretion, defer for a reasonable time the liquidation of any assets except those necessary to satisfy liabilities of the Partnership (including to those Partners as creditors) and/or distribute to the Partners, in lieu of cash, as tenants in common and in accordance with the provisions of Section 13.2.A hereof, undivided interests in such Partnership assets as the Liquidator deems not suitable for liquidation. Any such distributions in kind shall be made only if, in the good faith judgment of the Liquidator, such distributions in kind are in the best interest of the Partners, and shall be subject to such conditions relating to the disposition and management of such properties as the Liquidator deems reasonable and equitable and to any agreements governing the operation of such properties at such time. The Liquidator shall determine the fair market value of any property distributed in kind using such reasonable method of valuation as it may adopt.

C. In the event that the Partnership is "liquidated" within the meaning of Regulations Section 1.704-1(b)(2)(ii)(g), distributions shall be made pursuant to this Article 13 to the Partners and Assignees that have positive Capital Accounts in compliance with Regulations Section 1.704-1(b)(2)(ii)(b)(2) to the extent of, and in proportion to, positive Capital Account balances. If the General Partner has a deficit balance in its Capital Account (after giving effect to all contributions, distributions and allocations for all taxable years, including the year during which such liquidation occurs) (a "Capital Account Deficit"), the General Partner shall make a contribution to the capital of the Partnership equal to the amount of such deficit. No Partner other than the General Partner shall be required to make any contribution to the capital of the Partnership with respect to a Capital Account Deficit, if any, of such Partner, and such Capital Account Deficit shall not be considered a debt owed to the Partnership or any other person for any purpose whatsoever. In the sole and absolute discretion of the General Partner or the Liquidator, a pro rata portion of the distributions that would otherwise be made to the Partners pursuant to this Article 13 may be:

1. distributed to a trust established for the benefit of the General Partner and the Limited Partners for the purpose of liquidating Partnership assets, collecting amounts owed to the Partnership, and paying any contingent or unforeseen liabilities or obligations of the Partnership or of the

General Partner arising out of or in connection with the Partnership and/or Partnership activities. The assets of any such trust shall be distributed to the General Partner and the Limited Partners, from time to time, in the reasonable discretion of the General Partner, in the same proportions and amounts as would otherwise have been distributed to the General Partner and the Limited Partners pursuant to this Agreement; or

2. withheld or escrowed to provide a reasonable reserve for Partnership liabilities (contingent or otherwise) and to reflect the unrealized portion of any installment obligations owed to the Partnership, provided that such withheld or escrowed amounts shall be distributed to the

General Partner and Limited Partners in the manner and order of priority set forth in Section 13.2.A hereof as soon as practicable.

Section 13.3 Deemed Distribution and Recontribution. Notwithstanding any other provision of this Article 13, in the event that the Partnership is liquidated within the meaning of Regulations Section 1.704-1(b)(2)(ii)(g), but no Liquidating Event has occurred, the Partnership's Property shall not be liquidated, the Partnership's liabilities shall not be paid or discharged and the Partnership's affairs shall not be wound up. Instead, for federal income tax purposes the Partnership shall be deemed to have contributed all of its assets and liabilities to a new partnership in exchange for an interest in the new partnership; and, immediately thereafter, distributed interests in the new partnership to the Partners in accordance with their respective Capital Accounts in liquidation of the Partnership, and the new partnership is deemed to continue the business of the Partnership. Nothing in this Section 13.3 shall be deemed to have constituted any Assignee as a Substituted Limited Partner without compliance with the provisions of Section 11.4 hereof.

Section 13.4 Rights of Limited Partners. Except as otherwise provided in this Agreement, (a) each Limited Partner shall look solely to the assets of the Partnership for the return of its Capital Contribution, (b) no Limited Partner shall have the right or power to demand or receive property other than cash from the Partnership and (c) no Limited Partner (other than any Limited Partner who holds Partnership Preferred Units, to the extent specifically set forth herein and in the applicable Partnership Unit Designation) shall have priority over any other Limited Partner as to the return of its Capital Contributions, distributions or allocations.

Section 13.5 Notice of Dissolution. In the event that a Liquidating Event occurs or an event occurs that would, but for an election or objection by one or more Partners pursuant to Section 13.1 hereof, result in a dissolution of the Partnership, the General Partner shall, within thirty (30) days thereafter, provide written notice thereof to each of the Partners and, in the General Partner's sole and absolute discretion or as required by the Act, to all other parties with whom the Partnership regularly conducts business (as determined in the sole and absolute discretion of the General Partner), and the General Partner may, or, if required by the Act, shall, publish notice thereof in a newspaper of general circulation in each place in which the Partnership regularly conducts business (as determined in the sole and absolute discretion of the General Partner).

Section 13.6 Cancellation of Certificate of Limited Partnership. Upon the completion of the liquidation of the Partnership cash and property as provided in Section 13.2 hereof, the Partnership shall be terminated, a certificate of cancellation shall be filed with the State of Delaware, all qualifications of the Partnership as a foreign limited partnership or association in jurisdictions other than the State of Delaware shall be cancelled, and such other actions as may be necessary to terminate the Partnership shall be taken.

Section 13.7 Reasonable Time for Winding-Up. A reasonable time shall be allowed for the orderly winding-up of the business and affairs of the Partnership and the liquidation of its assets pursuant to Section 13.2 hereof, in order to minimize any losses otherwise attendant upon such winding-up, and the provisions of this Agreement shall remain in effect between the Partners during the period of liquidation.

ARTICLE XIV
PROCEDURES FOR ACTIONS AND CONSENTS OF PARTNERS; AMENDMENTS; MEETINGS

Section 14.1 Procedures for Actions and Consents of Partners. The actions requiring consent or approval of Limited Partners pursuant to this Agreement, including Section 7.3 hereof, or otherwise pursuant to applicable law, are subject to the procedures set forth in this Article 14.

Section 14.2 Amendments. Amendments to this Agreement may be proposed by the General Partner or by a Majority in Interest of the Limited Partners. Following such proposal, the General Partner shall submit any proposed amendment to the Limited Partners. The General Partner shall seek the written consent of the Limited Partners on the proposed amendment or shall call a meeting to vote thereon and to transact any other business that the General

Partner may deem appropriate. For purposes of obtaining a written consent, the General Partner may require a response within a reasonable specified time, but not less than fifteen (15) days, and failure to respond in such time period shall constitute a consent that is consistent with the General Partner's recommendation with respect to the proposal; provided, however, that an action shall become effective at such time as requisite consents are received even if prior to such specified time.

Section 14.3 Meetings of the Partners.

A. Meetings of the Partners may be called by the General Partner and shall be called upon the receipt by the General Partner of a written request by a Majority in Interest of the Limited Partners. The call shall state the nature of the business to be transacted. Notice of any such meeting shall be given to all Partners not less than seven (7) days nor more than thirty (30) days prior to the date of such meeting. Partners may vote in person or by proxy at such meeting. Whenever the vote or Consent of Partners is permitted or required under this Agreement, such vote or Consent may be given at a meeting of Partners or may be given in accordance with the procedure prescribed in Section 14.3.B hereof.

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 so taken is signed by a majority of the Percentage Interests of the Partners (or such other percentage as is expressly required by this Agreement for the action in question). Such consent may be in one instrument or in several instruments, and shall have the same force and effect as a vote of a majority of the Percentage Interests of the Partners (or such other percentage as is expressly required by this Agreement). Such consent shall be filed with the General Partner. An action so taken shall be deemed to have been taken at a meeting held on the effective date so certified.

C. Each Limited Partner may authorize any Person or Persons to act for it by proxy on all matters in which a Limited Partner is entitled to participate, including waiving notice of any meeting, or voting or participating at a meeting. Every proxy must be signed by the Limited Partner or its attorney-in-fact. No proxy shall be valid after the expiration of eleven (11) months from the date thereof unless otherwise provided in the proxy (or there is receipt of a proxy authorizing a later date). Every proxy shall be revocable at the pleasure of the Limited Partner executing it, such revocation to be effective upon the Partnership's receipt of written notice of such revocation from the Limited Partner executing such proxy. The use of proxies will be governed in the same manner as in the case of corporations organized under the General Corporation Law of Delaware (including Section 212 thereof).

D. Each meeting of Partners shall be conducted by the General Partner or such other Person as the General Partner may appoint pursuant to such rules for the conduct of the meeting as the General Partner or such other Person deems appropriate in its sole and absolute discretion. Without limitation, meetings of Partners may be conducted in the same manner as meetings of the General Partner's shareholders and may be held at the same time as, and as part of, the meetings of the General Partner's shareholders.

ARTICLE XV
GENERAL PROVISIONS

Section 15.1 Addresses and Notice. Any notice, demand, request or report required or permitted to be given or made to a Partner or Assignee under this Agreement shall be in writing and shall be deemed given or made when delivered in person or when sent by first class United States mail or by other means of written communication (including by telecopy, facsimile, or commercial courier service) to the

Partner or Assignee at the address set forth in Exhibit A or such other address of which the Partner shall notify the General Partner in writing.

Section 15.2 Titles and Captions. All article or section titles or captions in this Agreement are for convenience only. They shall not be deemed part of this Agreement and in no way define, limit, extend or describe the scope or intent of any provisions hereof. Except as specifically provided otherwise, references to "Articles" or "Sections" are to Articles and Sections of this Agreement.

Section 15.3 Pronouns and Plurals. Whenever the context may require, any pronouns used in this Agreement shall include the corresponding masculine, feminine or neuter forms, and the singular form of nouns, pronouns and verbs shall include the plural and vice versa.

Section 15.4 Further Action. The parties shall execute and deliver all documents, provide all information and take or refrain from taking action as may be necessary or appropriate to achieve the purposes of this Agreement.

Section 15.5 Binding Effect. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their heirs, executors, administrators, successors, legal representatives and permitted assigns.

Section 15.6 Waiver.

A. No failure by any party to insist upon the strict performance of any covenant, duty, agreement or condition of this Agreement or to exercise any right or remedy consequent upon a breach thereof shall constitute waiver of any such breach or any other covenant, duty, agreement or condition.

B. The restrictions, conditions and other limitations on the rights and benefits of the Limited Partners contained in this Agreement, and the duties, covenants and other requirements of performance or notice by the Limited Partners, are for the benefit of the Partnership and, except for an obligation to pay money to the Partnership, may be waived or relinquished by the General Partner, in its sole and absolute discretion, on behalf of the Partnership in one or more instances from time to time and at any time; provided, however, that any such waiver or relinquishment may not be made if it would have the effect of (i) creating liability for any other Limited Partner, (ii) causing the Partnership to cease to qualify as a limited partnership, (iii) reducing the amount of cash otherwise distributable to the Limited Partners, (iv) resulting in the classification of the Partnership as an association or publicly traded partnership taxable as a corporation or (v) violating the Securities Act, the Exchange Act or any state "blue sky" or other securities laws; provided, further, that any waiver relating to compliance with the Ownership Limit or other restrictions in the Charter shall be made and shall be effective only as provided in the Charter.

Section 15.7 Counterparts. This Agreement may be executed in counterparts, all of which together shall constitute one agreement binding on all the parties hereto, notwithstanding that all such parties are not signatories to the original or the same counterpart. Each party shall become bound by this Agreement immediately upon affixing its signature hereto.

Section 15.8 Applicable Law. This Agreement shall be construed and enforced in accordance with and governed by the laws of the State of Delaware, without regard to the principles of conflicts of law. In the event of a conflict between any provision of this Agreement and any non-mandatory provision of the Act, the provisions of this Agreement shall control and take precedence.

Section 15.9 Entire Agreement. This Agreement contains all of the understandings and agreements between and among the Partners with respect to the subject matter of this Agreement and the rights, interests and obligations of the Partners with respect to the Partnership.

Section 15.10 Invalidity of Provisions. If any provision of this Agreement is or becomes invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained herein shall not be affected thereby.

Section 15.11 Limitation to Preserve REIT Status. Notwithstanding anything else in this Agreement, to the extent that the amount paid, credited, distributed or reimbursed by the Partnership to any REIT Partner or its officers, directors, employees or agents, whether as a reimbursement, fee, expense or indemnity (a "REIT Payment"), would constitute gross income to the REIT Partner for purposes of Code Section 856(c)(2) or Code Section 856(c)(3), then, notwithstanding any other provision of this Agreement, the amount of such REIT Payments, as selected by the General Partner in its

discretion from among items of potential distribution, reimbursement, fees, expenses and indemnities, shall be reduced for any Partnership Year so that the REIT Payments, as so reduced, for or with respect to such REIT Partner shall not exceed the lesser of:

(i) an amount equal to the excess, if any, of (a) four and nine-tenths percent (4.9%) of the REIT Partner's total gross income (but excluding the amount of any REIT Payments) for the Partnership Year that is described in subsections (A) through (H) of Code Section 856(c)(2) over (b) the amount of gross income (within the meaning of Code Section 856(c)(2)) derived by the REIT Partner from sources other than those described in subsections (A) through (H) of Code Section 856(c)(2) (but not including the amount of any REIT Payments); or

(ii) an amount equal to the excess, if any, of (a) twenty-four percent (24%) of the REIT Partner's total gross income (but excluding the amount of any REIT Payments) for the Partnership Year that is described in subsections (A) through (I) of Code Section 856(c)(3) over (b) the amount of gross income (within the meaning of Code Section 856(c)(3)) derived by the REIT Partner from sources other than those described in subsections (A) through (I) of Code Section 856(c)(3) (but not including the amount of any REIT Payments);

provided, however, that REIT Payments in excess of the amounts set forth in clauses (i) and (ii) above may be made if the General Partner, as a condition precedent, obtains an opinion of tax counsel that the receipt of such excess amounts shall not adversely affect the REIT Partner's ability to qualify as a REIT. To the extent that REIT Payments may not be made in a Partnership Year as a consequence of the limitations set forth in this Section 15.11, such REIT Payments shall carry over and shall be treated as arising in the following Partnership Year. The purpose of the limitations contained in this Section 15.11 is to prevent any REIT Partner from failing to qualify as a REIT under the Code by reason of such REIT Partner's share of items, including distributions, reimbursements, fees, expenses or indemnities, receivable directly or indirectly from the Partnership, and this Section 15.11 shall be interpreted and applied to effectuate such purpose.

Section 15.12 No Partition. No Partner nor any successor-in-interest to a Partner shall have the right while this Agreement remains in effect to have any property of the Partnership partitioned, or to file a complaint or institute any proceeding at law or in equity to have such property of the Partnership partitioned, and each Partner, on behalf of itself and its successors and assigns hereby waives any such right. It is the intention of the Partners that the rights of the parties hereto and their successors-in-interest to Partnership property, as among themselves, shall be governed by the terms of this Agreement, and that the rights of the Partners and their successors-in-interest shall be subject to the limitations and restrictions as set forth in this Agreement.

Section 15.13 No Third-Party Rights Created Hereby. The provisions of this Agreement are solely for the purpose of defining the interests of the Partners, inter se; and no other person, firm or entity (i.e., a party who is not a signatory hereto or a permitted successor to such signatory hereto) shall have any right, power, title or interest by way of subrogation or otherwise, in and to the rights, powers, title and provisions of this Agreement. No creditor or other third party having dealings with the Partnership (other than as expressly set forth herein with respect to Indemnitees) shall have the right to enforce the right or obligation of any Partner to make Capital Contributions or loans to the Partnership or to pursue any other right or remedy

hereunder or at law or in equity. None of the rights or obligations of the Partners herein set forth to make Capital Contributions or loans to the Partnership shall be deemed an asset of the Partnership for any purpose by any creditor or other third party, nor may any such rights or obligations be sold, transferred or assigned by the Partnership or pledged or encumbered by the Partnership to secure any debt or other obligation of the Partnership or any of the Partners.

Section 15.14 No Rights as Stockholders. Nothing contained in this Agreement shall be construed as conferring upon the Holders of Partnership

Units any rights whatsoever as stockholders of the General Partner, including without limitation any right to receive dividends or other distributions made to stockholders of the General Partner or to vote or to consent or receive notice as stockholders in respect of any meeting of stockholders for the election of directors of the General Partner or any other matter.

Section 15.15 Parent REIT.Parent REIT is the corporate parent of the General Partner and the Initial Limited Partner, and derives certain benefits from the structure established by this Agreement and is a party hereto. Parent REIT shall not, however, have any Capital Account or other direct right to any allocations or distributions by the Partnership hereunder.

[the next page is the signature page]

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

GENERAL PARTNER:

ARBOR REALTY GPOP, INC.

By: /s/ Frederick C. Herbst

Name: Frederick C. Herbst
Title: Secretary and Treasurer

INITIAL LIMITED PARTNER:

ARBOR REALTY LPOP, INC.

By: /s/ Frederick C. Herbst

Name: Frederick C. Herbst
Title: Secretary and Treasurer

LIMITED PARTNER:

ARBOR COMMERCIAL MORTGAGE, LLC

By: /s/ Frederick C. Herbst

Name: Frederick C. Herbst
Title: Chief Financial Officer

PARENT REIT:

ARBOR REALTY TRUST, INC.

By: /s/ Frederick C. Herbst

Name: Frederick C. Herbst
Title: Chief Financial Officer, Secretary and Treasurer

As of July 1, 2003

EXHIBIT A
PARTNERS AND PARTNERSHIP UNITS

NAME AND ADDRESS OF PARTNERS	PARTNERSHIP UNITS (TYPE AND AMOUNT)	PERCENTAGE INTERESTS
General Partner:		
ARBOR REALTY GPOP, INC.	11,295 Common Units	.1%
Limited Partners:		

ARBOR REALTY LPOP, INC.	8,137,105 Common Units	72.041%
	49,167 Restricted Common Units	N/A
	3,146,724 Class A Preferred Units	N/A
ARBOR COMMERCIAL MORTGAGE LLC	3,146,724 Common Units	27.859%

EXHIBIT B
EXAMPLES REGARDING ADJUSTMENT FACTOR

For purposes of the following examples, it is assumed that (a) the Adjustment Factor in effect on December 30, 2002 is 1.0 and (b) on January 1, 2003 (the "Partnership Record Date" for purposes of these examples), prior to the events described in the examples, there are 100 REIT Shares issued and outstanding.

Example 1

On the Partnership Record Date, the Parent REIT declares a dividend on its outstanding REIT Shares in REIT Shares. The amount of the dividend is one REIT Share paid in respect of each REIT Share owned. Pursuant to Paragraph (i) of the definition of "Adjustment Factor," the Adjustment Factor shall be adjusted on the Partnership Record Date, effective immediately after the stock dividend is declared, as follows:

$$1.0 * \frac{200}{100} = 2.0$$

Accordingly, the Adjustment Factor after the stock dividend is declared is 2.0.

Example 2

On the Partnership Record Date, the Parent REIT distributes options to purchase REIT Shares to all holders of its REIT Shares. The amount of the distribution is one option to acquire one REIT Share in respect of each REIT Share owned. The strike price is $4.00 a share. The Value of a REIT Share on the Partnership Record Date is $5.00 per share. Pursuant to Paragraph (ii) of the definition of "Adjustment Factor," the Adjustment Factor shall be adjusted on the Partnership Record Date, effective immediately after the options are distributed, as follows:

$$1.0 * \frac{\{(100+100)\}}{100+ \frac{\{(100+\{100*\$4.00\}}{\{\$5.00\})\}}} = 1.1111$$

Accordingly, the Adjustment Factor after the options are distributed is 1.1111. If the options expire or become no longer exercisable, then the retroactive adjustment specified in Paragraph (ii) of the definition of "Adjustment Factor" shall apply.

Example 3

On the Partnership Record Date, the Parent REIT distributes assets to all holders of its REIT Shares. The amount of the distribution is one asset with a fair market value (as determined by the Parent REIT) of $1.00 in respect of each REIT Share owned. It is also assumed that the assets do not relate to assets received by the General Partner pursuant to a pro rata distribution by the Partnership. The Value of a REIT Share on the Partnership Record Date is $5.00 a share. Pursuant to Paragraph (iii) of the definition of "Adjustment Factor," the Adjustment Factor shall be adjusted on the Partnership Record Date, effective immediately after the assets are distributed, as follows:

$$1.0* \frac{\{\$5.00\}}{\{\$5.00 - \$1.00\}} = 1.25$$

Accordingly, the Adjustment Factor after the assets are

distributed is 1.25.

EXHIBIT C
NOTICE OF REDEMPTION

To: Arbor Realty GPOP, Inc.
333 Earle Ovington Boulevard
Suite 900
Uniondale, New York 11553

The undersigned Limited Partner or Assignee hereby irrevocably tenders for Redemption _____ Partnership Common Units in Arbor Realty Limited Partnership in accordance with the terms of the Amended and Restated Agreement of Limited Partnership of Arbor Realty Limited Partnership, dated as of July 1, 2003 (the "Agreement"), and the Redemption rights referred to therein. The undersigned Limited Partner or Assignee:

(a) undertakes (i) to surrender such Partnership Common Units and any certificate therefor at the closing of the Redemption and (ii) to furnish to the General Partner, prior to the Specified Redemption Date, the documentation, instruments and information required under Section 8.6.G of the Agreement;

(b) directs that the certified check representing the Cash Amount, or the REIT Shares Amount, as applicable, deliverable upon the closing of such Redemption be delivered to the address specified below;

(c) represents, warrants, certifies and agrees that:

(i) the undersigned Limited Partner or Assignee is a Qualifying Party,

(ii) the undersigned Limited Partner or Assignee has, and at the closing of the Redemption will have, good, marketable and unencumbered title to such Partnership Common Units, free and clear of the rights or interests of any other person or entity,

(iii) the undersigned Limited Partner or Assignee has, and at the closing of the Redemption will have, the full right, power and authority to tender and surrender such Partnership Common Units as provided herein, and

(iv) the undersigned Limited Partner or Assignee has obtained the consent or approval of all persons and entities, if any, having the right to consent to or approve such tender and surrender; and

(d) acknowledges that he will continue to own such Partnership Common Units until and unless either (1) such Partnership Common Units are acquired by a REIT Party pursuant to Section 8.6.B of the Agreement or (2) such redemption transaction closes.

All capitalized terms used herein and not otherwise defined shall have the same meaning ascribed to them respectively in the Agreement.

Dated: _____

Name of Limited Partner or Assignee:

_____

_____
(Signature of Limited Partner or Assignee)

_____
(Street Address)

_____
(City) (State) (Zip Code)

Signature Guaranteed by:

_____

Issue Check Payable to: _____

Please insert social security
or identifying number: _____

EXHIBIT D
FORM OF UNIT CERTIFICATE

THE SECURITY EVIDENCED HEREBY HAS NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "ACT"), OR THE SECURITIES LAWS OF ANY STATE AND MAY NOT BE SOLD, TRANSFERRED OR OTHERWISE DISPOSED OF IN THE ABSENCE OF SUCH REGISTRATION, UNLESS THE TRANSFEROR DELIVERS TO THE PARTNERSHIP AN OPINION OF COUNSEL SATISFACTORY TO THE PARTNERSHIP, IN FORM AND SUBSTANCE SATISFACTORY TO THE PARTNERSHIP, TO THE EFFECT THAT THE PROPOSED SALE, TRANSFER OR OTHER DISPOSITION MAY BE EFFECTED WITHOUT REGISTRATION UNDER THE ACT AND UNDER APPLICABLE STATE SECURITIES OR "BLUE SKY" LAWS. IN ADDITION, THE LIMITED PARTNERSHIP INTEREST EVIDENCED BY THIS CERTIFICATE MAY BE SOLD OR OTHERWISE TRANSFERRED ONLY IN COMPLIANCE WITH THE RESTRICTIONS ON TRANSFER SET FORTH IN THE AMENDED AND RESTATED AGREEMENT OF LIMITED PARTNERSHIP OF ARBOR REALTY LIMITED PARTNERSHIP, DATED AS OF JULY 1, 2003 A COPY OF WHICH MAY BE OBTAINED FROM ARBOR REALTY TRUST, INC. AT ITS PRINCIPAL EXECUTIVE OFFICE.

Certificate Number _____

ARBOR REALTY LIMITED PARTNERSHIP
FORMED UNDER THE LAWS OF THE STATE OF DELAWARE

This certifies that _____
is the owner of _____

FULLY PAID PARTNERSHIP COMMON UNITS OF
ARBOR REALTY LIMITED PARTNERSHIP

transferable on the books of the Partnership in person or by duly authorized attorney on the surrender of this Certificate properly endorsed. This Certificate and the Partnership Common Units represented hereby are issued and shall be held subject to all of the provisions of the Amended and Restated Agreement of Limited Partnership, as the same may be amended and/or supplemented from time to time.

IN WITNESS WHEREOF, the undersigned has signed this Certificate.

Dated:

By _____

EXHIBIT 10.5

WARRANT AGREEMENT

BY AND AMONG

ARBOR REALTY LIMITED PARTNERSHIP

ARBOR REALTY TRUST, INC.

AND

ARBOR COMMERCIAL MORTGAGE, LLC

629,345 WARRANTS TO PURCHASE UNITS

TABLE OF CONTENTS

WARRANT AGREEMENT

This Agreement, dated as of the date set forth on the signature page, by and between Arbor Realty Limited Partnership, a Delaware limited partnership (the "Partnership"), (the "Partnership"), Arbor Realty Trust, Inc., a Maryland corporation (the "REIT") and Arbor Commercial Mortgage, LLC, a New York limited liability company ("ACM), as holder.

WITNESSETH

A. The Partnership has authorized the issuance of up to 3,146,724 units of limited partnership interests ("Units"), and 629,345 Unit purchase warrants (each a "Warrant," and collectively, the "Warrants"), each Warrant initially entitling the holder thereof to purchase one additional Unit to ACM in exchange for cash, property, securities and other assets contributed to the Partnership by ACM of the Units and Warrants (the "Holder");

B. The Warrants will expire on the date that is two years after the date of this Agreement;

C. At any time that a Holder exercises Warrants and purchases Units, the REIT shall issue to such Holder the equivalent number of shares of its Preferred Stock designated as shares of Special Voting Preferred Stock, par value $0.01 per share (the "Special Voting Stock"), as Units that such Holder has purchased upon the exercise of the Warrants; and

D. The Partnership shall act on behalf of the Holders as set forth herein, in connection with the issuance, transfer, exchange, replacement and exercise of the Warrants.

NOW, THEREFORE, in consideration of the premises and the mutual agreements herein set forth, the parties hereto agree as follows:

ARTICLE 1

DEFINITIONS

SECTION 1. DEFINITIONS

Capitalized terms used herein shall have the following meanings:

Accredited Investors. Any Person who meets the applicable criteria for an "accredited investor" as defined in Rule 501(a) under the Securities Act.

Acquiror. Shall have the meaning set forth in Section 4.11.

Business Day. Each Monday, Tuesday, Wednesday, Thursday and Friday that is not a day on which banking institutions in the City of New York are authorized or obligated by federal, state or local law or executive order to close.

Consideration. Shall have the meaning set forth in Section 4.11.

Corporation. A corporation, association, company, joint-stock company or business trust.

Definitive Warrant Certificate. A Warrant Certificate that is in the form set forth in Exhibit A to this Agreement.

Exchange Period. Shall have the meaning set forth in Section 4.1.

Exercise Price. Shall have the meaning set forth in Section 4.2.

Expiration Date. The date that is two years after the date of this Agreement.

General Partner. A person who is designated as the general partner of the Partnership as set forth in the Partnership Agreement.

Holder. A Person in whose name a Definitive Warrant Certificate is registered in the Warrant Register kept by the Partnership.

Limited Partners. The limited partners of the Partnership at any applicable time.

Partnership Agreement. The operating partnership agreement, dated July 1, 2003, of the Partnership.

Partnership. Shall have the meaning set forth in the Recitals.

Person. An individual, limited or general partnership, Corporation, joint venture, trust or unincorporated organization, or any other entity, including a government or agency or political subdivision thereof.

Purchase Notice. A notice substantially in the form of Exhibit C hereto.

Responsible Officers. Shall have the meaning set forth in Section 2.2(c).

QIB. Qualified Institutional Buyer (as defined in Rule 144A under the Securities Act).

Rule 144. Rule 144 promulgated under the Securities Act.

Rule 144A. Rule 144A promulgated under the Securities Act.

Securities Act. The Securities Act of 1933, as amended.

Trading Day. Any day other than a Saturday or Sunday or a day on which securities are not traded on any national securities exchange.

Transaction. Shall have the meaning set forth in Section 4.11.

Transfer Restricted Warrants. Each Warrant until the date on which such Warrant (i) has been disposed of pursuant to an effective registration statement under the Securities Act, (ii) is distributed to the public pursuant to Rule 144 or is freely salable pursuant to Rule 144(k) (or any similar provisions then in force), (iii) is otherwise freely tradable without registration under the Securities Act or (iv) has been acquired by the Partnership.

Warrant Agent. The Partnership until a successor Warrant Agent shall have become such pursuant to the applicable provisions of this Agreement, and thereafter "Warrant Agent" shall mean such successor Warrant Agent.

Warrant Certificate. A certificate representing Warrants issued under this Agreement.

Warrant Register. Shall have the meaning set forth in Section 3.3(a).

ARTICLE 2

PARTNERSHIP APPOINTMENT; DUTIES; RESIGNATION

SECTION 2.1 APPOINTMENT OF THE PARTNERSHIP.

The Partnership is hereby appointed as agent of the Holders in respect of the Warrants and the Warrant Certificates, upon the terms and subject to the conditions set forth herein, and subject to resignation of the Partnership from such capacity as provided herein. The Partnership agrees to accept such appointment, upon the terms and subject to the conditions set forth herein.

The Partnership shall have the powers and authority granted to it by this Agreement and such further powers and authority to act on behalf of the Holders as the Holders may hereafter grant to or confer upon it.

SECTION 2.2 DUTIES OF PARTNERSHIP.

The Partnership accepts its obligations set forth herein upon the terms and conditions hereof, including the following, to all of which the Holder agrees and to all of which the rights hereunder of the Holders from time to time of the Warrant Certificates shall be subject:

(a) The Partnership shall act hereunder as agent and in a ministerial capacity for the Holder, and its duties shall be determined solely by the provisions hereof. In acting

under this Agreement and with respect to the Warrant Certificates, the Partnership does not assume any obligation or relationship of agency or trust for or with any Holder.

(b) The Partnership shall be obligated to perform such duties as are specifically set forth herein and in the Warrant Certificates and no implied duties or obligations shall be read into this Agreement or the Warrant Certificates against the Partnership.

(c) The Partnership shall not be liable for any act or omission in connection with this Agreement except for its own negligence, willful misconduct or bad faith.

(d) The Partnership may at any time consult with counsel satisfactory to it and shall incur no liability or responsibility in respect of any action taken, suffered or omitted to be taken by it in good faith in accordance with the opinion or advice of such counsel.

(e) The Partnership shall not be under any liability for interest on, and shall not be required to invest, any monies at any time received by it pursuant to any of the provisions of this Agreement or of the Warrant Certificates.

SECTION 2.3 RESIGNATION; APPOINTMENT OF SUCCESSOR WARRANT AGENT.

The Partnership may at any time resign as Warrant Agent and be discharged from all further duties and liabilities hereunder (except liabilities arising as a result of the Partnership's own negligence or willful misconduct), by giving written notice to each Holder of Warrants of such resignation, specifying the date on which such resignation shall be effective; provided, that such notice shall be given no less than 90 days prior to such effective date. Upon its resignation, the Partnership shall promptly appoint a Warrant Agent by written instrument in duplicate signed on behalf of the Partnership by the General Partner or a Responsible Officer. Such resignation shall become effective upon the acceptance of the appointment by the Warrant Agent.

The Partnership may, at any time and for any reason, remove the then-current Warrant Agent and appoint a successor Warrant Agent by written instrument in duplicate, specifying such removal and the date on which it is to become effective, signed by the General Partner or a Responsible Officer of the Partnership, one copy of which shall be delivered to the Warrant Agent being removed and one copy to the successor Warrant Agent.

Upon resignation or removal of the Warrant Agent, if the Partnership shall fail to appoint a successor Warrant Agent within a period of 90 days after receipt of such notice of resignation or removal, then any Holder may apply to a court of competent jurisdiction for the appointment of a successor to the Warrant Agent. Pending appointment of a successor to the Warrant Agent, either by Partnership or by such court, the duties of the Warrant Agent shall be carried out by the Partnership.

Any appointment of a Warrant Agent shall become effective upon acceptance of appointment by the Warrant Agent as provided in this Section 2.3. As soon as practicable after the appointment of the Warrant Agent, the Partnership shall cause written notice of such change to be given to each of Holder.

Any successor Warrant Agent shall execute and deliver to its predecessor and to the Partnership, the REIT and the Holders, an instrument accepting such appointment hereunder and all the provisions of this Agreement (with such modifications as the parties hereto agree) and thereupon such successor Warrant Agent shall, without any further act, deed or conveyance, become vested with the same rights, powers, duties and responsibilities of its predecessor hereunder, with like effect as if it had been originally named herein and the Warrant Agent shall thereupon become obligated to transfer, deliver and pay over, and such successor Warrant Agent shall be entitled to receive, all moneys, securities, records or other property on deposit with or held by the Partnership under this Agreement without any further act on the part of any party.

ARTICLE 3

THE WARRANTS

SECTION 3.1 NUMBER OF WARRANTS.

The number of Warrants that may be issued and delivered under this Agreement is limited to 629,345 Warrants, except for Warrants issued and delivered in connection with any transfer of, in exchange for, or in lieu of, other Warrants (which other Warrants shall be canceled) in accordance with the terms of this Agreement.

SECTION 3.2 ISSUANCE OF WARRANTS.

Warrants initially will be issued in the form of a single Definitive Warrant Certificate.

SECTION 3.3 REGISTRATION OF TRANSFER AND EXCHANGE.

(a) General. The Partnership shall cause to be kept a register (the "Warrant Register") in which the Partnership shall provide for the registration of Definitive Warrant Certificates and of transfers and exchanges of Warrants.

(b) Transfer and Exchange of Definitive Warrant Certificates. A Holder of a Definitive Warrant Certificate may at any time transfer such Definitive Warrant Certificate or exchange such Definitive Warrant Certificate for Definitive Warrant Certificates representing an equal number of Warrants in accordance with this subsection (b). Upon receipt by the Partnership of:

(i) a Definitive Warrant Certificate, duly endorsed or accompanied by appropriate instruments of transfer, in form reasonably satisfactory to the Partnership, and

(ii) if such Definitive Warrant Certificate represents Transfer Restricted Warrants, a certificate in substantially the form set forth in Exhibit B to this

Agreement from the Holder thereof requesting Definitive Warrant Certificates and stating that such Warrants are being:

(1) delivered to the Partnership for registration in the name of such Holder, without transfer; or

(2) transferred pursuant to an effective registration statement under the Securities Act; or

(3) transferred to a QIB in accordance with Rule 144A; or

(4) transferred in reliance on an exemption from the registration requirements of the Securities Act other than that provided by Rule 144A (in which case the Definitive Warrant Certificate surrendered shall also be accompanied by an opinion of counsel reasonably acceptable to the Partnership to the effect that such transfer is in compliance with the Securities Act),

(c) then the Partnership will (i) cancel the surrendered Definitive Warrant Certificate, (ii) execute one or more Definitive Warrant Certificates representing the amount of Warrants to be transferred or exchanged (iii) countersign and deliver to the transferee or Holder such Definitive Warrant Certificates and (iv) register such Definitive Warrant Certificates in the name of the transferee or Holder in the Warrant Register.

(d) Legends. The Definitive Warrant Certificates shall initially bear a legend in substantially the form set forth in Exhibit A to this Agreement. A Definitive Warrant Certificate that does not bear the legends set forth in Exhibit A to this Agreement will be executed and delivered in the case of a transfer of a Warrant that is not a Transfer Restricted Warrant.

(e) Taxes. No service charge shall be payable by any Holder for any registration of transfer or exchange of Warrant Certificates, but the Partnership may require payment of a sum sufficient to cover any tax or other governmental charge that may be imposed in connection with any registration of transfer or exchange of Warrant Certificates other than exchanges not involving any transfer.

SECTION 3.4 EXECUTION AND DELIVERY.

The Warrant Certificates shall be executed on behalf of the Partnership by the General Partner or a Responsible Officer attested by its Secretary or one of its Assistant Secretaries or a Person holding a position of similar responsibility of the Partnership. The signature of any of such Persons on the Warrant Certificates may be manual or facsimile. Warrant Certificates bearing the manual or facsimile signatures of individuals who were at any time the proper officers of the Partnership shall bind the Partnership, notwithstanding that such individuals or any of them have ceased to hold such offices prior to the delivery of such Warrant Certificates.

At any time and from time to time after the execution and delivery of this Agreement, the Partnership shall deliver Warrant Certificates executed by the Partnership in accordance with this Section 3.4 to the Holder(s).

SECTION 3.5 DESTROYED, LOST, MUTILATED OR STOLEN WARRANT CERTIFICATES.

If there shall be delivered to the Partnership evidence to its satisfaction of the destruction, loss, mutilation or theft of any Warrant Certificate and such security and indemnity as may be required by it to save it and any of its agents (including, without limitation, any successor Warrant Agent) of either of them harmless, then, in the absence of notice to the Partnership that such Warrant Certificate has been acquired by a bona fide purchaser, and in the case of mutilation, upon surrender of such Warrant Certificate to the Partnership for cancellation, the Partnership shall execute, in lieu of or exchange for any such destroyed, lost, mutilated or stolen Warrant Certificate, a new Warrant Certificate for a like number of Warrants, bearing a number not contemporaneously outstanding.

Upon the issuance of any new Warrant Certificate under this Section 3.5, the Partnership may require the payment of a sum sufficient to cover any tax or other governmental charge that may be imposed in relation thereto and any other expenses connected therewith.

Every substitute Warrant Certificate issued and delivered pursuant to this Section 3.5 in lieu of any destroyed, lost or stolen Warrant Certificate shall constitute an original additional contractual obligation of the Partnership, whether or not the destroyed, lost or stolen Warrant Certificate shall be at any time enforceable by anyone, and shall be entitled to all the benefits of, and be subject to all the limitations of rights set forth in, this Agreement equally and proportionately with any and all other Warrant Certificates duly issued and delivered hereunder.

The provisions of this Section 3.5 are exclusive and shall preclude (to the extent lawful) any and all other rights and remedies with respect to the replacement of destroyed, lost, mutilated or stolen Warrant Certificates notwithstanding any law or statute existing or hereafter enacted to the contrary.

SECTION 3.6 PERSONS DEEMED OWNERS.

The Partnership, and any agent of the Partnership, may deem and treat the Person in whose name a Warrant Certificate is registered in the Warrant Register as the absolute, true and lawful owner of such Warrant Certificate and the Warrants represented thereby (notwithstanding any notation of ownership or other writing thereon made by any Person) for all purposes, and neither the Partnership nor any of its agents shall be affected by any notice or knowledge to the contrary.

SECTION 3.7 CANCELLATION OF WARRANT CERTIFICATES.

All Warrant Certificates surrendered for registration of transfer, exchange or exercise shall be promptly canceled by the Partnership.

SECTION 3.8 NO RIGHTS AS LIMITED PARTNERS.

Nothing contained in this Agreement or in the Warrant Certificates shall be construed as conferring upon the Holders or any transferees any of the rights of the Limited Partners of the Partnership, including without limitation, the right to vote or to receive distributions or to receive notice as Limited Partners in respect of any meeting of Limited Partners for the election of managers of the Partnership or any other matter. Nothing contained in this Agreement shall be construed as imposing any liabilities on such holder to purchase any securities or as a Limited Partner of the Partnership, whether such liabilities are assumed by the Partnership or by creditors or Limited Partners of the Partnership or otherwise.

ARTICLE 4

EXERCISE OF WARRANTS

SECTION 4.1 EXERCISE PERIOD.

Subject to and upon compliance with the provisions of this Agreement, at the option of the Holder thereof, a Warrant may be exercised at the Exercise Price in effect at the time of exercise, at any time on any Business Day during the period (the "Exercise Period") commencing on the date of this Agreement and ending 5:00 P.M., New York time, on the Expiration Date, unless the Exercise Period is extended by the Partnership. Following the Expiration Date, any Warrant not previously exercised shall expire and be null and void, and all rights of the Holder under the Warrant Certificate evidencing such Warrant and under this Agreement shall cease.

SECTION 4.2 UNITS ISSUABLE UPON EXERCISE; EXERCISE PRICE.

Subject to and upon compliance with the provisions of this Agreement, each Warrant shall entitle the Holder thereof to purchase from the Partnership one Unit at an exercise price (the "Exercise Price") of $15.00 per Unit. The Exercise Price and the number and kind of securities or other property issuable upon exercise of the Warrants shall be adjusted in certain instances as provided in Section 4.6 of this Agreement.

SECTION 4.3 METHOD OF EXERCISE.

Each Warrant may be exercised in whole or in part. In order to exercise any Warrants, the Holder thereof shall present and surrender the Warrant Certificate evidencing the Warrants to the Partnership at the office or agency of the Partnership maintained for that purpose pursuant to Section 7.5, with the Notice of Exercise on the Warrant Certificate duly completed and executed by the Holder or by the Holder's legal representative or attorney duly authorized in writing to the satisfaction of the Partnership, and accompanied by payment in full of the aggregate Exercise Price for the number of Units specified in the Notice of Exercise, and of any other amounts required to be paid in connection with such exercise, (i) by cash or certified or official bank check, (ii) by surrendering additional Warrants or Units for cancellation to the extent that the Partnership may lawfully accept Units in the Partnership, or (iii) by such other means as is acceptable to the Partnership in the lawful currency of the United States of America which as of the time of payment is legal tender for payment of public or private debts. The value per Unit surrendered in accordance with this Section 4.3 equals the current market price per Unit as defined in Section 4.6(e) of this Agreement as of the business day next preceding the date the Warrant Certificates are surrendered for exercise and the value of a Warrant being equal to the difference between such current market price and the Exercise Price.

Warrants shall be deemed to have been exercised immediately prior to the close of business on the date of surrender of the Warrant Certificate representing such Warrants for exercise in accordance with the foregoing provisions, and at such time the Person or Persons entitled to receive the Unit issuable upon exercise shall be treated for all purposes as the record holder or holders of such Unit at the close of business on the date of such surrender, notwithstanding that the transfer books of the Partnership shall then be closed or that certificates representing such Units shall not then be actually delivered to such Person or Persons.

If any Warrant Certificate is surrendered for the exercise of less than all the Warrants represented thereby, the Partnership shall execute, at the expense of the Partnership, a new Warrant Certificate, dated the date of such exercise, evidencing the number of Warrants remaining unexercised unless such Warrants shall have expired.

SECTION 4.4 ISSUANCE OF UNITS.

Within five Business Days of the later of (i) the Partnership's receipt of the Notice of Exercise together with payment of the purchase price for the Units and (ii) the REIT's receipt of the Purchase Notice together with payment of the purchase price for the Special Voting Stock to be paired with the Units to be issued upon such exercise, the Partnership shall issue and deliver, or cause to be delivered, to the Holder, a certificate or certificates evidencing the number of full Units to which such Holder is entitled, paired with a certificate representing an equal number of shares of Special Voting Stock in

accordance with the Pairing Agreement, registered in such name or names as may be directed by such Holder in the Notice of Exercise, together with a check for payment in lieu of any fractional Unit, as provided in Section 4.5 of this Agreement.

The Partnership shall not issue Units to any Holder who has not concurrently delivered to the REIT a Purchase Notice together with the full purchase price for the Special Voting Stock to be paired with the Units to be issued upon the exercise of the Warrants, as set forth in Section 5 hereof.

SECTION 4.5 FRACTIONS OF UNITS.

No fractional Units shall be issued upon exercise of any Warrants. If more than one Warrant shall be exercised at one time by the same Holder, the number of full Units which shall be issuable upon exercise thereof shall be computed on the basis of the aggregate number of Units issuable under the Warrants so exercised. In lieu of any fractional Unit that would otherwise be issuable upon exercise of any Warrant or Warrants, the Partnership shall pay a cash adjustment in respect of such fraction in an amount equal to the same fraction of the market price per Unit (as determined by the General Partner of the Partnership or in any manner prescribed by the General Partner at the close of business on the day such exercise is deemed to have occurred.

SECTION 4.6 ADJUSTMENT OF EXERCISE PRICE.

(a) In the event the Partnership after the date hereof shall (i) pay a distribution or make a distribution in Units of the Partnership, (ii) subdivide its outstanding Units, (iii) combine its outstanding Units into a smaller number of Units, or (iv) issue by reclassification of its Units any securities or interests of the Partnership, the exercise right and the Exercise Price in effect immediately prior to such action shall be adjusted so that the holder of any Warrant thereafter surrendering such Warrant for exercise shall be entitled to receive the number of Units or other securities or interests of the Partnership that such holder would have owned immediately following such action had such Warrant been exercised immediately prior to the record date for such action or to such action, as appropriate. An adjustment made pursuant to this Section 4.6 shall, in the case of a subdivision, combination or reclassification become effective retroactively immediately after the record date thereof. If, as a result of an adjustment made pursuant to this Section 4.6, the holder of any Warrant thereafter surrendered for exercise shall become entitled to receive two or more types of securities, the General Partner of the Partnership shall in good faith determine the allocation of the adjusted Exercise Price between or among such different types of securities or interests of the Partnership.

(b) In the event the Partnership after the date hereof shall distribute to all the holders of Units any distribution (other than a cash distribution) or any evidence of indebtedness or any assets in respect of the Units, or rights to subscribe or purchase Units at a price per Unit less than the current market price per Unit (as defined in Section 4.6(e) of this Agreement) at the record date referenced below, then, and thereafter successively upon each such distribution, the Exercise Price in effect immediately prior to such distribution shall forthwith be reduced to a price determined by multiplying the Exercise Price in effect immediately prior to such distribution by a fraction the numerator of which shall be the current market price per Unit (as defined in Section 4.6(e) of this Agreement) at the record date referenced below, less the fair market value (as determined in good

faith by the General Partner of the Partnership) of the portion of such evidences of indebtedness or such assets so distributed, or of such subscription or purchase rights, applicable to one Unit and the denominator of which shall be such current market price per Unit. An adjustment made pursuant to Section 4.6(b) shall become effective retroactively immediately after the record date for the determination of Limited Partners entitled to receive such distribution.

(c) After each adjustment of the Exercise Price pursuant to Sections 4.6(a) and 4.6(b), the total number of Units or fractional part thereof purchasable upon the exercise of each Warrant shall be proportionately adjusted to the product obtained by multiplying the number of Units purchasable upon exercise of each Warrant by a fraction, (i) the numerator of which shall be the Exercise Price in effect immediately prior to the adjustment and (ii) the denominator of which shall be the Exercise Price immediately following the adjustment.

(d) The certificate of any independent firm of public accountants of recognized national standing selected by the General Partner of the Partnership shall be conclusive evidence of the correctness of any computations under Sections 4.6(a) and 4.6(b) of this Agreement.

(e) For the purposes of Sections 4.3, 4.6(a) and 4.6(b) of this Agreement, the current market price per Unit as of any date of determination shall be deemed to be the last reported sale price for a single Unit for which a sale is officially recorded on the transfer books of the Partnership or, if there is no prior reported sale, the per Unit book value of the Partnership as determined in good faith by the General Partner.

(f) No adjustment of the Exercise Price shall be required under Sections 4.6(a) and 4.6(b) of this Agreement if the amount of such adjustment is less than 1%; provided, however, that any adjustments that by reason of the foregoing are not required at the time to be made shall be carried forward and taken into account and included in determining the amount of any subsequent adjustment. If the Partnership shall take a record of Limited Partners for the purpose of entitling them to receive any distribution and thereafter and before the distribution to Limited Partners of any such distribution, legally abandon its plan to pay or deliver such distribution, then no adjustment of the Exercise Price shall be required by reason of the taking of such record. All calculations under this Section 4.6 shall be made to the nearest cent or to the nearest one-hundredth of a Unit, as the case may be.

(g) Whenever the Exercise Price is adjusted pursuant to this Section 4.6, the Partnership shall cause to be mailed, first class, postage prepaid to the registered Holders of the Warrants at their last addressees as they appear on the registry books of the Partnership a notice (i) summarizing (a) the events requiring the adjustment and (b) the method by which such adjustment was calculated and (ii) specifying the Exercise Price and the number or kind or class of securities or interests purchasable upon exercise of the Warrants after giving effect to such adjustment.

(h) In the event that at any time, as a result of an adjustment made pursuant to Section 4.6(a) of this Agreement, securities or interests of the Partnership other than Units are issuable upon exercise of the Warrants, thereafter the number of such other securities or interests of the Partnership so issuable shall be subject to adjustment from time to time in a manner and on terms as nearly equivalent as practicable to the provisions with respect to the Units contained in this Section 4.6, and all other provisions of this Agreement with respect to Units shall apply on like terms to any such other securities or interests. Subject to the foregoing, and unless the context requires otherwise, all references to Units in this Agreement and in the Warrant Certificates shall, in the event of an adjustment pursuant to this Section 4.6, be deemed to refer also to any other securities or property then issuable upon exercise of the Warrants as a result of such adjustments.

SECTION 4.7 NOTICE OF CERTAIN CORPORATE ACTION.

In case:

(a) the Partnership shall declare a distribution on the Units payable otherwise than exclusively in cash; or

(b) the Partnership shall authorize the granting to the Limited Partners of rights, options or warrants to subscribe for or purchase any securities or interest of any kind or class or of any other rights; or

(c) of any reclassification of the Units of the Partnership (other than a merger which is effected solely to change the jurisdiction of the Partnership), or of any consolidation or merger to which the Partnership is a party and for which approval of any Limited Partners of the Partnership is required, or of the sale or transfer of all or substantially all of the assets of the Partnership; or

(d) of the voluntary or involuntary dissolution, liquidation or winding up of the Partnership;

then the Partnership shall, if notice of such event is sent to the Limited Partners generally, and shall cause to be mailed to all Holders at their last addresses as they shall appear in the Warrant Register, on or prior to the date information regarding such corporate action is sent to the Limited Partners generally, a notice stating (i) the date on which a record is to be taken for the purpose of such distribution, rights, options or warrants, or, if a record is not to be taken, the date as of which the Limited Partners of record to be entitled to such distribution, rights, options or warrants are to be determined, or (ii) the date on which such reclassification, consolidation, merger, transfer, dissolution, liquidation or winding up (or amendment thereto) is expected to become effective, and the date as of which it is expected that the Limited Partners shall be entitled to exchange their Units for securities, cash or other property deliverable upon such reclassification, consolidation, merger, transfer, dissolution, liquidation or winding up.

SECTION 4.8 PARTNERSHIP AGREEMENT TO PROVIDE FOR ISSUANCE OF UNITS.

The Partnership shall, at all times during the Exercise Period, maintain in the Partnership Agreement a provision for the issuance of the maximum number of Units that are issuable to the Holders upon the exercise of the Warrants that are outstanding at any time.

SECTION 4.9 TAXES ON EXERCISES.

The Partnership shall pay any and all taxes that may be payable in respect of the issue or delivery of Units on exercise of Warrants pursuant hereto. The Partnership shall not, however, be required to pay any tax which may be payable in respect of (i) income of the Holder or (ii) any transfer involved in the issue and delivery of Units in name other than that of the Holder of the Warrant or Warrants to be exercised, and no such issue or delivery shall be made unless and until the Person requesting such issue has paid to the Partnership the amount of any such taxes or has established to the satisfaction of the Partnership that such tax has been paid.

SECTION 4.10 COVENANT AS TO UNITS.

The Partnership covenants that all Units that may be issued upon exercise of any Warrants will, upon issue and payment of the Exercise Price therefor, be valid units of limited partnership interests in the Partnership and free and clear from all taxes, liens, charges, security interests, encumbrances and other restrictions created by or through the Partnership.

SECTION 4.11 PROVISIONS IN CASE OF CONSOLIDATION, MERGER OR SALE OF ASSETS.

In case of any consolidation of the Partnership with, or merger of the Partnership into, any other Person, any merger of another Person into the Partnership (other than a merger which does not result in any reclassification, conversion, exchange or cancellation of outstanding Units of the Partnership) or any sale or transfer of all or substantially all of the assets of the Partnership (each, a "Transaction"), the Person formed by such Transaction or which acquires such assets, as the case may be (the "Acquiror"), shall execute and deliver to the Holder prior to the consummation of the Transaction a warrant agreement (or supplement to this Warrant Agreement) providing that the Holder of each Warrant then outstanding shall have the right thereafter, during the period such Warrant shall be exercisable in accordance with this Warrant Agreement, to

exercise such Warrant only into the kind and amount of securities, interests, cash and other property (collectively, the "Consideration") receivable upon such Transaction by a Limited Partner into which such Warrant might have been exercised immediately prior to such Transaction assuming such Limited Partner is not a Person with which the Partnership consolidated or into which the Partnership merged or which merged into the Partnership or to which such sale or transfer was made, as the case may be (a "constituent person"), or an affiliate of a constituent person. If a Holder is a Limited Partner at the time of the Transaction and the kind or amount of the Consideration receivable upon such Transaction is not the same for each Unit held immediately prior to the Transaction by Limited Partners (other than a constituent

Person or an affiliate thereof), then for purposes of this Section 4.11, the kind and amount of Consideration receivable by such Holder upon the Transaction for such Holder's Warrants shall be the kind and amount of Consideration that such Holder elected as a Limited Partner to receive for its Units in the Transaction. If such Holder fails to make an election as a Limited Partner in the Transaction, then for purposes of this Section 4.11, the kind and amount of Consideration receivable by such Holder upon the Transaction shall be deemed to be the kind and amount so receivable per Unit by a plurality of Limited Partners who fail to make an election in the Transaction. Such warrant agreement shall provide for adjustments upon the occurrence of events with respect to the Acquiror similar to the events described in Section 4.6(a) and (b) of this Agreement, which, for events subsequent to the effective date of such warrant agreement, shall be as nearly equivalent as may be practicable to the adjustments provided for in this Article 4. The above provisions of this Section 4.11 shall similarly apply to successive Transactions.

SECTION 4.12 NO CHANGE OF WARRANT NECESSARY.

Irrespective of any adjustment in the Exercise Price or in the number or kind of Units or other property issuable upon exercise of the Warrants, the Warrant Certificates theretofore or thereafter issued may continue to express the same Exercise Price and number and kind of Units issuable upon exercise per Warrant as are stated in the Warrant Certificates initially issued pursuant to this Agreement.

SECTION 4.13 ENFORCEMENT OF RIGHTS.

Notwithstanding any of the provisions of this Agreement, any Holder, without the consent of any other Holder, may enforce, and may institute and maintain any suit, action or proceeding against the Partnership to enforce, such Holder's right to exercise the Warrants evidenced by such Holder's Warrant Certificate in the manner provided in such Warrant Certificate and this Agreement.

SECTION 4.14 AVAILABLE INFORMATION.

The Partnership shall promptly deliver to the Holders copies of its annual reports and of the information, documents and other reports (or copies of such portions of any of the foregoing as the Commission may by rules and regulations prescribe) that the Partnership is required to provide to the Limited Partners pursuant to the Partnership Agreement.

ARTICLE 5

SPECIAL VOTING STOCK

SECTION 5.1 PURCHASE OF SPECIAL VOTING STOCK; PAIRING

(a) The Holder shall, at the same time it delivers its Notice of Exercise to the Partnership, deliver to the REIT a Purchase Notice, in the Form of Exhibit C hereto, together with payment in full of $.01 per share for a number of shares of Special Voting Stock equal to the number of Units to be issued by the Partnership to the Holder upon the exercise of such Warrant.

(b) Upon receipt of such Purchase Notice, the REIT shall issue and sell to the Holder a number of shares of Special Voting Stock equal to the number of

Units issued by the Partnership to the Holder upon the exercise of such Warrant.

(c) To effect the concurrent issue of the Special Voting Stock, the Partnership shall provide the REIT with timely notice of exercise of the Warrants and the REIT and the Partnership shall make such other additional provision as they may deem necessary to ensure compliance with the Pairing Agreement (as defined below).

(d) The REIT shall issue the Special Voting Stock and the Partnership shall issue the Units in accordance with the terms of the Pairing Agreement of even date herewith among the REIT, the Holder, the Partnership, Arbor Realty LP OP, Inc., a Delaware corporation ("LP"), Arbor Realty GP OP, Inc., a Delaware corporation ("GP") (the "Pairing Agreement"), including, without limitation, the provisions of Section 3(a) thereof requiring any certificate evidencing the Units issued upon exercise of the Warrants to be printed "back-to-back" with a certificate evidencing the Special Voting Preferred and to bear a conspicuous legend (on the face thereof) referring to the restrictions on transfer set forth in such Agreement.

ARTICLE 6

AMENDMENTS

SECTION 6.1 AMENDMENT OF AGREEMENT.

The Partnership and the REIT may, without the consent of any Holders, amend this Agreement in such manner as they shall deem appropriate to cure any ambiguity, to correct any defective or inconsistent provision or manifest mistake or error herein contained, or in any other manner that they may deem necessary or desirable and which shall not adversely affect the rights of the Holders of Warrants. This Agreement shall not otherwise be modified, supplemented or amended in any respect by the Partnership and the REIT, except with the consent in writing of the Holders of outstanding Warrants representing not less than a majority of the Warrants then outstanding; provided, however, that the consent in writing of each and every Holder shall be required for any such modification, supplement or amendment which (a) changes the Exercise Period (except to extend the expiration of the Exercise Period to a later date) or increases the Exercise Price, or (b) reduces the percentage of Holders of outstanding Warrants the consent of who is required to modify, supplement or amend this Agreement.

Any modification, supplement or amendment pursuant to this Section 5.1 shall be binding upon all present and future Holders, whether or not they have consented to such modification, supplement or amendment, and whether or not notation of such modification, supplement or amendment is made upon any Warrant Certificate issued to such Holder.

SECTION 6.2 RECORD DATE.

The Partnership may set a record date for purposes of determining the identity of Holders entitled to consent to any modification, supplement or amendment to this Agreement. If the Partnership does not set a record date, the record date shall be 30 days prior to the first solicitation of such consent.

ARTICLE 7

MISCELLANEOUS PROVISIONS

SECTION 7.1 COUNTERPARTS.

This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, and all of which together shall constitute the same instrument.

SECTION 7.2 GOVERNING LAW.

THIS AGREEMENT AND THE WARRANT CERTIFICATES ISSUED HEREUNDER SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK, WITHOUT REGARD TO THE CONFLICT OF LAW PROVISIONS THEREOF.

SECTION 7.3 DESCRIPTIVE HEADINGS.

The descriptive headings of this Agreement are for convenience only and shall not control or affect the meaning or construction of any provision of this Agreement.

SECTION 7.4 NOTICES.

Any notice, request or other document permitted or required hereunder to be given to any Holder shall be sufficiently given if in writing and mailed first-class postage prepaid, to each Holder affected by such event, at its address as it appears in the Warrant Register. In any case where notice to Holders is given by mail, neither the failure to mail such notice, nor any defect in any notice so mailed, to any particular Holders shall affect the sufficiency of such notice with respect to other Holders. Any notice required hereunder to be given to any Holder may be waived in writing by the Person entitled to receive such notice, either before or after the event, and such waiver shall be the equivalent of such notice.

Any notice, request, waiver, consent or other document provided or permitted by this Agreement to be given to (i) the Partnership by any Holder shall be sufficient for every purpose hereunder (unless otherwise herein expressly provided) if in writing and mailed, first-class postage prepaid or sent by facsimile followed by confirmation of receipt by telephone, to the Partnership at the address or facsimile number of its principal office specified in the first paragraph of this Agreement or at any other address or facsimile number previously furnished in writing to the Holder by the Partnership.

SECTION 7.5 MAINTENANCE OF OFFICE.

So long as any of the Warrants remain outstanding, the Partnership shall designate and maintain in the State of New York an office or agency where Warrant Certificates may be surrendered for registration of transfer or for exchange, where Warrants may be surrendered for exercise and where notices and demands to or upon the Partnership in respect of the Warrants and this Warrant Agreement may be served, initially located at 333 Earle Ovington Boulevard, Suite 900, Uniondale, NY 11553. The Partnership may from time to time change or rescind such designation as it may deem desirable or expedient. The Partnership will give prompt written notice to the Holders of any change in the location, of such office or agency.

The Partnership may also from time to time designate one or more other offices or agencies (in or outside the State of New York) where Warrant Certificates may be presented or surrendered for any or all such purposes and may from time to time rescind such designations; provided, however, that no such designation or rescission shall in any manner relieve the Partnership of its obligation to maintain an office or agency in the State of New York for such purposes.

SECTION 7.6 SUCCESSORS AND ASSIGNS.

All covenants and agreements in this Agreement by the Partnership shall bind its successors and assigns, whether so expressed or not.

SECTION 7.7 SEPARABILITY.

In case any provision in this Agreement or in the Warrant Certificates shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

SECTION 7.8 PERSONS HAVING RIGHTS UNDER AGREEMENT.

Nothing in this Agreement or in the Warrant Certificates, expressed or implied, is intended, or shall be construed, to give any Person, other than the parties hereto and their successors hereunder, and the Holders of Warrants, any benefit, right, remedy or claim under or by reason of this Agreement.

[Signatures on following page]

IN WITNESS WHEREOF, the Partnership, the REIT and the Holder have caused this Agreement to be executed by their duly authorized officers as of the date set forth below.

ARBOR REALTY LIMITED PARTNERSHIP

By: Arbor Realty GPOP, Inc.,
its general partner

By: /s/ Frederick C. Herbst

Frederick C. Herbst
Secretary and Treasurer

Witness: Dated: July 1, 2003

By: /s/ Tymour Okasha

Name: Tymour Okasha

ARBOR REALTY TRUST, INC.

By: /s/ Frederick C. Herbst

Frederick C. Herbst
Chief Financial Officer

Witness: Dated: July 1, 2003

By: Tymour Okasha

Name: Tymour Okasha

ARBOR COMMERCIAL MORTGAGE, LLC

By: /s/ Frederick C. Herbst

Frederick C. Herbst
Chief Financial Officer

Witness: Dated: July 1, 2003

By: /s/ Tymour Okasha

Name: Tymour Okasha

EXHIBIT A

FORM OF WARRANT CERTIFICATE

Certificate Number 629,345 Warrants

VOID AND EXPIRED AFTER 5:00 p.m. on July 1, 2005

WARRANTS TO PURCHASE

629,345 UNITS OF LIMITED PARTNERSHIP INTERESTS

ARBOR REALTY LIMITED PARTNERSHIP

THE SECURITIES EVIDENCED HEREBY HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED(1) (THE "SECURITIES ACT"), OR ANY STATE SECURITIES LAWS. NEITHER THE SECURITIES EVIDENCED HEREBY NOR ANY INTEREST OR PARTICIPATION HEREIN MAY BE OFFERED, SOLD, ASSIGNED, TRANSFERRED, PLEDGED, ENCUMBERED OR OTHERWISE DISPOSED OF IN THE ABSENCE OF SUCH REGISTRATION OR UNLESS SUCH TRANSACTION IS EXEMPT FROM, OR NOT SUBJECT TO, REGISTRATION. THE

HOLDER OF THIS CERTIFICATE BY ITS ACCEPTANCE HEREOF AGREES TO OFFER, SELL OR OTHERWISE TRANSFER ANY SECURITY EVIDENCED HEREBY, PRIOR TO THE DATE (THE "RESALE RESTRICTION TERMINATION DATE") THAT IS TWO YEARS AFTER THE LATER OF (X) THE ORIGINAL ISSUE DATE HEREOF AND (Y) THE LAST DATE ON WHICH THE PARTNERSHIP OR ANY AFFILIATED PERSON OF THE PARTNERSHIP WAS THE OWNER OF SUCH SECURITY (OR ANY PREDECESSOR OF SUCH SECURITY) ONLY (A) TO THE PARTNERSHIP, (B) PURSUANT TO A REGISTRATION STATEMENT THAT HAS BEEN DECLARED EFFECTIVE UNDER THE SECURITIES ACT, (C) FOR SO LONG AS THE SECURITY IS ELIGIBLE FOR RESALE PURSUANT TO RULE 144A, TO A PERSON IT REASONABLY BELIEVES IS A "QUALIFIED INSTITUTIONAL BUYER," AS SUCH TERM IS DEFINED IN, AND IN COMPLIANCE WITH, RULE 144A PROMULGATED UNDER THE SECURITIES ACT, THAT PURCHASES FOR ITS OWN ACCOUNT OR FOR THE ACCOUNT OF A QUALIFIED INSTITUTIONAL BUYER TO WHOM NOTICE IS GIVEN THAT THE TRANSFER IS BEING MADE IN RELIANCE ON RULE 144A, (D) TO AN

---

(1) Paragraph to be included in a Warrant Certificate representing Transfer Restricted Warrants.

INSTITUTIONAL "ACCREDITED INVESTOR" WITHIN THE MEANING OF SUBPARAGRAPH (a)(1), (2), (3), (7) OR (8) OF RULE 501 PROMULGATED UNDER THE SECURITIES ACT THAT IS ACQUIRING THE SECURITY FOR ITS OWN ACCOUNT, OR FOR THE ACCOUNT OF SUCH AN INSTITUTIONAL "ACCREDITED INVESTOR," FOR INVESTMENT PURPOSES AND NOT WITH A VIEW TO, OR FOR OFFER OR SALE IN CONNECTION WITH, ANY DISTRIBUTION IN VIOLATION OF THE SECURITIES ACT, (E) TO AN INDIVIDUAL "ACCREDITED INVESTOR" WITHIN THE MEANING OF SUBPARAGRAPH (a)(4), (5) OR (6) OF RULE 501 PROMULGATED UNDER THE SECURITIES ACT, OR (F) PURSUANT TO ANOTHER AVAILABLE EXEMPTION FROM THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT, SUBJECT TO THE PARTNERSHIP'S RIGHT PRIOR TO ANY SUCH OFFER, SALE OR TRANSFER PURSUANT TO CLAUSES (D) OR (E), TO REQUIRE THE DELIVERY OF AN OPINION OF COUNSEL, CERTIFICATIONS AND OTHER INFORMATION SATISFACTORY TO EACH OF THEM. THIS LEGEND WILL BE REMOVED UPON THE REQUEST OF THE HOLDER AFTER THE RESALE RESTRICTION TERMINATION DATE.

THE UNITS ISSUED UPON EXERCISE OF THIS WARRANT ARE REQUIRED TO BE ISSUED BY THE PARTNERSHIP IN THE FORM OF A CERTIFICATE PAIRED AND PRINTED BACK TO BACK WITH A CERTIFICATE ISSUED BY ARBOR REALTY TRUST, INC. (THE "REIT") EVIDENCING AN EQUAL NUMBER OF SHARES OF SPECIAL VOTING PREFERRED STOCK OF THE REIT IN ACCORDANCE WITH, AND SUBJECT TO THE TERMS OF, THE PAIRING AGREEMENT (AS DEFINED ON THE REVERSE SIDE HEREOF).

This Warrant Certificate certifies that Arbor Commercial Mortgage, LLC, or registered assigns, is the Holder of 629,345 Warrants (the "Warrants") to purchase units of limited partnership interests (the "Unit"), of Arbor Realty Limited Partnership, a Delaware limited partnership (the "Partnership"). Each Warrant entitles the Holder, at any time on any Business Day during the Exercise Period (as defined in the Warrant Agreement), to purchase from the Partnership one Unit of the Partnership at an Exercise Price of $15.00 per Unit (as such Exercise Price may be amended in accordance with this Warrant Certificate or the Warrant Agreement) upon surrender of this Warrant Certificate and payment of the Exercise Price at any office or agency maintained for that purpose by the Partnership.

Any Warrants not exercised on or prior to 5:00 p.m., New York City time, on the Expiration Date shall thereafter be null and void.

THIS WARRANT CERTIFICATE SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK, WITHOUT REGARD TO THE CONFLICT OF LAW PROVISIONS THEREOF.

Reference is hereby made to the further provisions of this Warrant Certificate on the reverse hereof, which provisions shall for all purposes have the same effect as though fully set forth at this place.

IN WITNESS WHEREOF, the Partnership has caused this Warrant certificate to be duly executed and a facsimile of its corporate seal to be imprinted thereon.

Dated: July 1, 2003

ARBOR REALTY LIMITED PARTNERSHIP

By: _____

Name:

Title:

[Reverse Side]

The Warrants represented by this Warrant Certificate are part of a duly authorized issue of Warrants of Arbor Realty Limited Partnership (the "Partnership") expiring 5:00 p.m., New York City time, on the Expiration Date. The Warrants represented hereby are issued pursuant to and are subject in all respects to the terms and conditions set forth in the Warrant Agreement (the "Warrant Agreement"), by and between the Partnership, the REIT and the holder hereof, which Warrant Agreement and any amendments thereto are hereby incorporated by reference in and made a part of this instrument, and to which reference is hereby made for a description of the respective rights, limitations of rights, obligations, duties and immunities thereunder of the Partnership, the REIT and the Holders of Warrants. A copy of the Warrant Agreement may be obtained from the Partnership at 333 Earle Ovington Boulevard, Suite 900, Uniondale, New York 11553, by a written request from the Holder hereof or which may be inspected by any Holder or such Holder's agent at the principal office of the Partnership. Subject to and upon compliance with the provisions of the Warrant Agreement, each Warrant entitles the Holder, at any time on any Business Day during the Exercise Period to purchase from the Partnership one Unit, (or such other number of Units if an adjustment has been made as provided in the Warrant Agreement), of the Partnership at an Exercise Price of $15.00 per Unit (or at the current adjusted Exercise Price if an adjustment has been made as provided in the Warrant Agreement). The Warrants may be exercised upon the presentation and surrender of this Warrant Certificate to the Partnership at its office or agency maintained for that purpose, with the form of Notice of Exercise set forth hereon duly completed and executed, accompanied by payment of the Exercise Price for each such Warrant exercised and any other amounts required to be paid, as provided in the Warrant Agreement. The Exercise Price shall be payable (i) by cash or certified or official bank check, (ii) by surrendering additional Warrants or Units for cancellation to the extent that the Partnership may lawfully accept Units in the Partnership, or (iii) by such other means as is acceptable to the Partnership in the lawful currency of the United States of America which as of the time of payment is legal tender for payment of public or private debts. The value per Unit surrendered in accordance with this provision equals the current market price per Unit as defined in the Warrant Agreement as of the business day next preceding the date the Warrant is surrendered for exercise and the value of this Warrant being equal to the difference between such current market price and the Exercise Price. The Exercise Price and the number and kind of securities or other property issuable upon exercise of each Warrant is subject to adjustment as provided in the Warrant Agreement.

Within five Business Days of the later of (i) the Partnership's receipt of the Notice of Exercise together with payment of the purchase price for the Units and (ii) the REIT's receipt of the Purchase Notice together with payment of the purchase price for the Special Voting Stock to be paired with the Units to be issued upon such exercise, the Partnership shall issue and deliver, or cause to be delivered, to the Holder, a certificate or certificates evidencing the number of full Units to which such Holder is entitled, paired with a certificate representing an equal number of shares of Special Voting Stock in accordance with the Pairing Agreement dated as of July 1,

2003, among the REIT, the Partnership, Arbor Realty LP OP, Inc., a Delaware corporation and Arbor Realty GP OP, Inc., registered in such name or names as may be directed by such Holder pursuant to the Notice of Exercise set forth on this Warrant Certificate. No fractional Units will be issued upon exercise of any Warrant, but instead of any fractional interest, the Partnership shall pay to the Holder a cash adjustment as provided in the Warrant Agreement.

In the case of the exercise of less than all the Warrants represented hereby, this Warrant Certificate shall be canceled upon the surrender hereof and a new Warrant Certificate or Warrant Certificates shall be issued and delivered for the balance of such Warrants represented hereby.

Prior to the exercise of any Warrant represented hereby, the Holder shall not be entitled to any rights of a Limited Partner of the Partnership by reason of such Person being a Holder, including, without limitation, the right to vote or to receive distributions, and shall not be entitled to receive any notice of any proceedings of the Partnership, except as provided in the Warrant Agreement.

The Warrant Agreement permits, with certain exceptions as therein provided, the amendment thereof and the modification of the rights and obligations of the Partnership and the rights of the Holders of Warrants under the Warrant Agreement at any time by the Partnership with the consent of the Holders of at least a majority of the Warrants at the time outstanding. Any such consent shall be conclusive and binding upon the Holder of this Warrant Certificate and upon all future Holders of any Warrant Certificate issued upon the registration of transfer of the Warrants evidenced hereby, or in exchange hereof or in lieu hereof, whether or not notation of such consent or waiver is made thereon. Notwithstanding the immediately preceding sentence, the Warrant Agreement provides that the consent in writing of each and every Holder shall be required for any such modification, supplement or amendment which (a) changes the Exercise Period (except to extend the expiration of the Exercise Period to a later date) or increases the Exercise Price or (b) reduces the percentage of Holders of outstanding Warrants the consent of who is required to modify, supplement or amend the Warrant Agreement.

As provided in the Warrant Agreement and subject to the limitations set forth therein, transfer of the Warrants represented by this Warrant Certificate is registrable upon surrender of this Warrant Certificate at the office or agency of the Partnership maintained for that purpose, and thereupon one or more new Warrant Certificates representing the Warrants so transferred will be issued to the designated transferee or transferees. As provided in the Warrant Agreement and subject to the limitations set forth therein, this Warrant Certificate is exchangeable for new Warrant Certificates representing a like number of Warrants, as requested by the Holder surrendering the same.

No service charge shall be payable by a Holder for any such registration of transfer or exchange, but the Partnership shall require payment of a sum sufficient to cover any tax or other governmental charge payable in connection therewith.

Prior to due presentment of this Warrant Certificate for registration of transfer, the Partnership and any agent of the Partnership may treat the Person in whose name this Warrant Certificate is registered as the absolute, true and lawful owner hereof and of the Warrants

represented hereby (notwithstanding any notation or ownership or other writing hereon made by any Person) for all purposes, and shall not be affected by any notice or knowledge to the contrary.

All terms used in this Warrant Certificate which are defined in the Warrant Agreement shall have the meanings assigned to them in the Warrant Agreement.

NOTICE OF EXERCISE

The undersigned hereby irrevocably elects to exercise [_____] of the Warrants represented by this Warrant Certificate and purchase the whole number of Units issuable and deliverable upon exercise of such Warrants, and herewith tenders payment for such Units in accordance with the terms of the Warrant Agreement. The undersigned hereby directs that the certificate or certificates for the Units issuable and deliverable upon exercise, together with any check in payment for fractional Units and any Warrant Certificate representing any unexercised Warrants represented by this Warrant Certificate, be issued in the name of and delivered to the undersigned, unless a different name is indicated below. The undersigned will pay any transfer taxes or other governmental charge payable with respect to any such Units to be issued in the name of a person other than the undersigned.

INSTRUCTIONS FOR REGISTRATION OF UNITS

(please typewrite or print)

Name: _____

Address:_____

Social Security or Other Taxpayer Identification Number: _____

Dated: _____

Signature: _____

Note: Signature must conform to name of Holder appearing on face hereof)

Signature must be guaranteed by a member of an accepted medallion guarantee program if Units are to be issued, or Warrant Certificate(s) are to be delivered, other than to and in the name of the Holder.

_____

Signature Guarantee

Fill in for registration of Units and Warrant Certificate(s) if to be issued otherwise than to the Holder:

_____ Social Security or other

(Name) Taxpayer Identification Number:

_____ _____

(Name)

_____ _____

Please print name and address

(including zip code)

EXHIBIT B

TRANSFER INSTRUCTION

RE: ARBOR REALTY LIMITED PARTNERSHIP WARRANTS

Reference is made to the Warrant Agreement dated as of July 1, 2003, relating to the Warrants (the "Agreement"). This Instruction and Certification relates to Warrants held by _____ (the "Transferor/Holder"). Capitalized terms not otherwise defined herein have the meanings set forth in the Agreement.

Instruction of Transfer or Exchange

(to be completed whether or not the Warrants to be transferred or

exchanged are Transfer Restricted Warrants)

1. The Transferor/Holder hereby instructs the Partnership to transfer or exchange one or more Definitive Warrant Certificates in accordance with Section 3.3(c) of the Agreement

2. The Transferor/Holder has requested Definitive Warrant Certificates above and hereby further instructs the Partnership to issue such Definitive Warrant Certificates without the restrictive legends referenced in Section 3.3(d) of the Agreement (check box if applicable): [ ]

CERTIFICATION

(to be completed for a transfer or exchange of Transfer Restricted Warrants only)

3. In connection with the transfer or exchange requested above, the Transferor/Holder does hereby certify that (check one box):

[ ] One or more Definitive Warrant Certificates is being obtained by the Transferor/Holder, without transfer or change in beneficial ownership (in accordance with Section 3.3(b)(ii)(1) of the Agreement); or

[ ] one or more Definitive Warrant Certificates is being transferred pursuant to an effective registration statement under the Securities Act (in satisfaction of Section 3.3(b)(ii)(2) of the Agreement).

[ ] one or more Definitive Warrant Certificates is being transferred to a "qualified institutional buyer" (as defined in Rule 144A) in reliance on Rule 144A (in satisfaction of Section 3.3(b)(ii)(3) of the Agreement); or

[ ] one or more Definitive Warrant Certificates is being obtained in reliance on and in compliance with an exemption from the registration requirements of the Securities Act, other than Rule 144A under the Securities Act, and an opinion of counsel to the effect that such transfer complies with, and does not require registration under, the Securities Act accompanies this Instruction and Certification (in satisfaction of Section 3.3(b)(ii)(4) of the Agreement).

_____

[INSERT NAME OF TRANSFEROR/HOLDER]

Date: _____ By: _____

EXHIBIT C

PURCHASE NOTICE

Dated _____ __, ____

Reference is made to the Warrant Agreement dated as of July 1, 2003, relating to the Warrants (the "Agreement"). This Purchase Notice relates to Warrants held by _____ (the "Holder"). Capitalized terms not otherwise defined herein have the meanings set forth in the Agreement.

(A) Concurrently with its delivery of this Purchase Notice Holder to the REIT has delivered to the Partnership its Notice of Exercise for _____ Warrants, each exercisable for one Unit along with payment for the purchase price for the Units being purchased.

(B) The Holder has included with this notice $_____ [MULTIPLY NUMBER OF WARRANTS SET FORTH ABOVE by $.01] representing the purchase price in full of _____ shares of Special Voting Stock. [THIS NUMBER MUST EQUAL THE NUMBER OF WARRANTS SET FORTH IN SECTION "(A)" ABOVE], and requests that the REIT issue such number of Special Voting Stock to the Holder.

(C) The Holder acknowledges that the certificate evidencing such Special Voting Stock shall be printed "back-to-back" with a certificate evidencing the Units issued upon exercise of the Warrants and shall bear a conspicuous legend (on the face thereof) referring to the restrictions on transfer set forth in the Pairing Agreement.

_____
[AUTHORIZED PERSON]

EXHIBIT 10.6

REGISTRATION RIGHTS AGREEMENT

BY AND BETWEEN

ARBOR REALTY TRUST, INC.

AND

ARBOR COMMERCIAL MORTGAGE, LLC

TABLE OF CONTENTS

REGISTRATION RIGHTS AGREEMENT

This REGISTRATION RIGHTS AGREEMENT is made and entered into as of July 1, 2003, between Arbor Realty Trust, Inc., a Maryland corporation (the "Company"), and Arbor Commercial Mortgage, LLC, a New York limited liability company ("ACM").

In consideration of the mutual covenants and agreements herein contained and other good and valid consideration, the receipt and sufficiency of which are hereby acknowledged, the parties to this Agreement hereby agree as follows:

1. CERTAIN DEFINITIONS.

In addition to the terms defined elsewhere in this Agreement, the following terms shall have the following meanings:

"Affiliate" of any Person means any other Person that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, such Person. The term "control" (including the terms "controlled by" and "under common control with") as used with respect to any Person means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such Person, whether through the ownership of voting securities, by contract or otherwise.

"Agreement" means this Registration Rights Agreement, including all amendments, modifications and supplements and any exhibits or schedules to any of the foregoing, and shall refer to this Registration Rights Agreement as the same may be in effect at the time such reference becomes operative.

"Business Day" means any day on which commercial banks are open for business in New York, New York.

"Common Stock" means common stock, par value $.01 per share, of the Company.

"Contribution Agreement" means the contribution agreement, dated as of July 1, 2003, by and among ACM, the Company, and Arbor Realty Limited Partnership, a Delaware limited partnership (the "Operating Partnership").

"Conversion Shares" means any of the shares of Common Stock issuable upon redemption of the Partnership Units.

"Exchange Act" means the Securities Exchange Act of 1934, as amended.

"Holder" means any holder of record of Registrable Common Stock (as defined below) and any transferees of such Registrable Common Stock from such Holders. For purposes of this Agreement, the Company may deem and treat the registered holder of Registrable Common Stock as the Holder and absolute owner thereof, and the Company shall not be affected by any notice to the contrary.

"Partnership Units" means operating partnership units of the Operating Partnership.

"Person" means any individual, sole proprietorship, partnership, limited liability company, joint venture, trust, incorporated organization, association, corporation, institution, public benefit corporation, government (whether federal, state, county, city, municipal or otherwise, including, without limitation, any instrumentality, division, agency, body or department thereof) or any other entity.

"Prospectus" means the prospectus or prospectuses included in any Registration Statement, as amended or supplemented by any prospectus supplement with respect to the terms of the offering of any portion of the Registrable Common Stock covered by such Registration Statement and by all other amendments and supplements to the prospectus, including post-effective amendments and all material incorporated by reference in such prospectus or prospectuses.

"Redemption Date" shall have the meaning set forth in the Operating Partnership Agreement.

"Registrable Common Stock" means the Conversion Shares upon original issuance thereof and at all times subsequent thereto, including upon the transfer thereof by the original Holder or any subsequent Holder and any securities issued in respect of such securities by reason of or in connection with any exchange for or replacement of such securities or any stock dividend, stock distribution, stock split, purchase in any rights offering or in connection with any combination of shares, recapitalization, merger or consolidation, or any other equity securities issued pursuant to any other pro rata distribution with respect to the Common Stock, until, in the case of any

such securities, the earliest to occur of (i) the date on which it has been registered effectively pursuant to the Securities Act and disposed of in accordance with the Registration Statement relating to it or (ii) the date on which either it is distributed to the public pursuant to Rule 144 or is saleable pursuant to Rule 144(k) promulgated by the Commission pursuant to the Securities Act. All references herein to a "Holder" or "Holder of Registrable Common Stock" shall include the holder or holders of Partnership Units to the extent of the Conversion Shares then underlying such Partnership Units. For purposes of determining the number of shares of Registrable Common Stock held by a Holder and the number of shares of Registrable Common Stock outstanding, for purposes of this Agreement (including the definition of "Holder") but not for any other purpose, any holder of record of Partnership Units shall be deemed to be a Holder of the number of Conversion Shares issuable upon conversion of such Partnership Units and all such Conversion Shares shall be deemed to be outstanding shares of Registrable Common Stock.

"Registration Statement" means any registration statement of the Company which covers any of the Registrable Common Stock pursuant to the provisions of this Agreement, including the Prospectus, amendments and supplements to such Registration Statement, including post-effective amendments, all exhibits and all materials incorporated by reference in such Registration Statement.

"Rule 415" means Rule 415 promulgated by the SEC pursuant to the Securities Act, as such Rule may be amended from time to time, or any similar Rule or regulation hereafter adopted by the Commission as a replacement thereto having substantially the same effect as such rule.

"SEC" means the Securities and Exchange Commission.

"Securities Act" means the Securities Act of 1933, as amended.

"Shelf Registration Statement" shall have the meaning set forth in Section 4 hereof.

"underwritten registration or underwritten offering" means a registration in which securities of the Company are sold to underwriters for reoffering to the public.

2. DEMAND REGISTRATIONS.

(a) Right to Request Registration. Any time after the Redemption Date any Holder or Holders who together hold a majority of the Registrable Common Stock ("Initiating Holders") may request registration under the Securities Act of all or part of the Registrable Common Stock ("Demand Registration") provided, that if the Company is eligible to use a Shelf Registration Statement (as defined in Section 4 hereof), the Holders shall be required to request that the Company register their Registrable Common Stock on a Shelf Registration Statement rather than requesting Demand Registrations and shall not be entitled to request any Demand Registrations while such Shelf Registration is effective and available for registration of the Registrable Common Stock.

Within 10 days after receipt of any such request for Demand Registration, the Company shall give written notice of such request to all other Holders of Registrable Common Stock and shall, subject to the provisions of Section 2(d) hereof, include in such registration all such Registrable Common Stock with respect to which the Company has received written requests for inclusion therein within 20 days after the receipt of the Company's notice.

(b) Number of Demand Registrations. Subject to the provisions of Section 2(a), the Initiating Holders of Registrable Common Stock shall be entitled to request an aggregate of six (6) Demand Registrations. A registration shall not count as one of the permitted Demand Registrations (i) until it has become effective, (ii) if the Initiating Holder(s) requesting such registration is not able to register and sell at least 50% of the Registrable Common Stock requested by such Initiating Holder(s) to be included in such registration or (iii) in the case of a Demand Registration that would be the last permitted Demand Registration requested hereunder, if the Initiating Holder(s) requesting such registration is not able to register and sell all of the Registrable Common Stock requested to be included by such Initiating Holder in such registration.

(c) Priority on Demand Registrations. If the managing underwriters of the requested Demand Registration advise the Company in writing that in their opinion the number of shares of Registrable Common Stock proposed to be included in any such

registration exceeds the number of securities that can be sold in such offering and/or that the number of shares of Registrable Common Stock proposed to be included in any such registration would adversely affect the price per share of the Company's equity securities to be sold in such offering, the Company shall include in such registration only the number of shares of Registrable Common Stock that, in the opinion of such managing underwriters, can be sold. If the number of shares that can be sold is less than the number of shares of Registrable Common Stock proposed to be registered, the amount of Registrable Common Stock to be so sold shall be allocated among the Holders pro rata on the basis of Registrable Common Stock offered for such registration by each Holder electing to participate in such registration. If the number of shares that can be sold exceeds the number of shares of Registrable Common Stock proposed to be sold, such excess shall be allocated pro rata among the other holders of Common Stock, if any, desiring to participate in such registration based on the amount of such Common Stock initially requested to be registered by such holders or as such holders may otherwise agree.

(d) Restrictions on Demand Registrations. The Company shall not be obligated to effect any Demand Registration within three months after the effective date of a previous Demand Registration, a previous Shelf Registration (as hereinafter defined) or a previous registration under which the Initiating Holders had piggyback rights pursuant to Section 3 hereof wherein the Initiating Holders were permitted to register, and sold, at least 50% of the shares of Registrable Common Stock requested to be included therein. In no event shall the Company be obligated to effect more than two (2) Demand Registrations hereunder in any single eighteen (18) month period, with the first such period measured from the date of the first Demand Registration and ending on the same date during the eighteenth month following such Demand Registration, whether or not a Business Day. The Company may (i) postpone for up to ninety (90) days the filing or the effectiveness of a Registration Statement for a Demand Registration if, based on the good faith judgment of the Company's board of directors, such postponement or withdrawal is necessary in order to avoid premature disclosure of a matter the board has determined would not be in the best interest of the Company to be disclosed at such time or (ii) postpone the filing of a Demand Registration in the event the Company shall be required to prepare audited financial statements as of a date other than its fiscal year end (unless the stockholders requesting such registration agree to pay the expenses of such an audit); provided, however, that in no event shall the Company withdraw a Registration Statement under clause (i) after such Registration Statement has been declared effective; and provided, further, however, that in any of the events described in clause (i) or (ii) above, the Initiating Holders requesting such Demand Registration shall be entitled to withdraw such request and, if such request is withdrawn, such Demand Registration shall not count as one of the permitted Demand Registrations. The Company shall provide written notice to the Initiating Holders requesting such Demand Registration of (x) any postponement or withdrawal of the filing or effectiveness of a Registration Statement pursuant to this Section 2(d), (y) the Company's decision to file or seek effectiveness of such Registration Statement following such withdrawal or postponement and (z) the effectiveness of such Registration Statement. The Company may defer the filing of a particular Registration Statement pursuant to this Section 2(d) only once.

(e) Selection of Underwriters. If any of the Registrable Common Stock covered by a Demand Registration or a Shelf Registration pursuant to Section 4 hereof is to be sold in an underwritten offering, the Initiating Holders shall have the right to select the managing underwriter(s) to administer the offering subject to the approval of the Company, which will not be unreasonably withheld.

(f) Other Registration Rights. The Company shall not grant to any Person the right, other than as set forth herein and to employees of the Company

with respect to registrations on Form S-8 (or any successor forms thereto), to request the Company to register any securities of the Company except such rights as are not more favorable than or inconsistent with the rights granted to the Holders herein. In the event the Company grants rights that are more favorable other than as permitted under the first sentence of this subsection 2(f), the Company will make such provisions available to the Holders and will enter into any amendments necessary to confer such rights on the Holders.

(g) Effective Period of Demand Registrations. After any Demand Registration filed pursuant to this Agreement has become effective, the Company shall use its best efforts to keep such Demand Registration effective for a period equal to 180 days from the date on which the SEC declares such Demand Registration effective (or if such Demand Registration is not effective during any period within such 180 days, such 180-day period shall be extended by the number of days during such period when such Demand Registration is not effective), or such shorter period that shall terminate when all of the Registrable Common Stock covered by such Demand Registration has been sold pursuant to such Demand Registration. If the Company shall withdraw any Demand Registration pursuant to subsection (d) of this Section 2 (a "Withdrawn Demand Registration"), the Initiating Holders of the Registrable Common Stock remaining unsold and originally covered by such Withdrawn Demand Registration shall be entitled to a replacement Demand Registration that (subject to the provisions of this Section 2) the Company shall use its best efforts to keep effective for a period commencing on the effective date of such Demand Registration and ending on the earlier to occur of the date (i) which is 180 days from the effective date of such Demand Registration and (ii) on which all of the Registrable Common Stock covered by such Demand Registration has been sold. Such additional Demand Registration otherwise shall be subject to all of the provisions of this Agreement.

3. PIGGYBACK REGISTRATIONS.

(a) Right to Piggyback. At any time after the Redemption Date, whenever the Company proposes to register any of its common equity securities under the Securities Act (other than a registration statement on Form S-8 or on Form S-4 or any similar successor forms thereto), whether for its own account or for the account of one or more stockholders of the Company, and the registration form to be used may be used for any registration of Registrable Common Stock (a "Piggyback Registration"), the Company shall give prompt written notice (in any event within 10 business days after its receipt of notice of any exercise of other demand registration rights) to all Holders of its intention to effect such a registration and, subject to Sections 3(b) and 3(c), shall include in such registration all Registrable Common Stock with respect to which the Company has

received written requests for inclusion therein within 20 days after the receipt of the Company's notice. The Company may postpone or withdraw the filing or the effectiveness of a Piggyback Registration at any time in its sole discretion.

(b) Priority on Primary Registrations. If a Piggyback Registration is an underwritten primary registration on behalf of the Company, and the managing underwriters advise the Company in writing that in their opinion the number of securities requested to be included in such registration exceeds the number that can be sold in such offering and/or that the number of shares of Registrable Common Stock proposed to be included in any such registration would adversely affect the price per share of the Company's equity securities to be sold in such offering, the underwriting shall be allocated among the Company and all Holders pro rata on the basis of the Common Stock and Registrable Common Stock offered for such registration by the Company and each Holder, respectively, electing to participate in such registration.

(c) Priority on Secondary Registrations. If a Piggyback Registration is an underwritten secondary registration on behalf of a holder of the Company's securities other than Registrable Common Stock ("Non-Holder Securities"), and the managing underwriters advise the Company in writing that in their opinion the number of securities requested to be included in such registration exceeds the number that can be sold in such offering and/or that the number of shares of Registrable Common Stock proposed to be included in any such registration would adversely affect the price per share of the Company's equity securities to be sold in such offering, the underwriting shall be allocated among the holders of Non-Holder Securities and all Holders pro rata on the basis of the Non-Holder Securities and Registrable Common Stock offered for

such registration by the holder of Non-Holder Securities and each Holder, respectively, electing to participate in such registration.

(d) Selection of Underwriters. If any Piggyback Registration is an underwritten primary offering, the Company shall have the right to select the managing underwriter or underwriters to administer any such offering.

(e) Other Registrations. If the Company has previously filed a Registration Statement with respect to Registrable Common Stock pursuant to Sections 2 or 4 hereof or pursuant to this Section 3, and if such previous registration has not been withdrawn or abandoned, the Company shall not be obligated to cause to become effective any other registration of any of its securities under the Securities Act, whether on its own behalf or at the request of any holder or holders of such securities, until a period of at least three months has elapsed from the effective date of such previous registration.

4. SHELF REGISTRATIONS.

(a) At the Holders' election (such election to be made if the Holders may not elect to exercise any Demand Registrations, subject to Section 4(b) below), if at any time that the Company is eligible to use Form S-11, Form S-3 or any successor thereto then available to the Company providing for the resale pursuant to Rule 415 from time to time by the Holders of any and all Registrable Common Stock (a "Shelf Registration

Statement") any Holder or Holders requests that the Company file a Shelf Registration Statement for a public offering of all or any portion of the Registrable Common Stock held by such Holders, then the Company shall use its best efforts to register under the Securities Act pursuant to a Shelf Registration Statement, for public sale in accordance with the method of disposition specified in such notice, the number of shares of Registrable Common Stock specified in such notice. Whenever the Company is required by this Section 4 to use its best efforts to effect the registration of Registrable Common Stock, each of the procedures and requirements of Section 2 (including but not limited to the requirement that the Company notify all Holders from whom notice has not been received and provide them with the opportunity to participate in the offering) shall apply to such registration. There is no limitation on the number of registrations pursuant to this Section 4 that the Company is obligated to effect until the earliest to occur of the date on which all of the Registrable Common Stock either (i) has been registered effectively pursuant to the Securities Act and disposed of in accordance with the Registration Statement relating to it or (ii) distributed to the public pursuant to Rule 144 or is saleable pursuant to Rule 144(k) promulgated by the Commission pursuant to the Securities Act.

(b) If at any time the Company is not eligible to use a Shelf Registration Statement, the Holders may during such time exercise Demand Registration Rights, regardless of any previous exercise of their rights under Section 4(a).

5. HOLDBACK AGREEMENT.

In connection with an underwritten primary or secondary offering to the public, each Holder agrees not to sell or otherwise transfer or dispose of any shares of Registrable Common Stock (or other securities) of the Company held by them (other than Registrable Common Stock included in such offering in accordance with the terms hereof) for a period equal to the lesser of one hundred eighty (180) days following the effective date of a registration statement of the Company filed under the Securities Act or such shorter period as the managing underwriter shall agree to, provided that all other stockholders who own more than five percent (5%) of the outstanding Common Stock of the Company and all officers and directors of the Company enter into similar agreements. Such agreement shall be in writing in form satisfactory to the Company and the managing underwriter. The Company may impose stop-transfer instructions with respect to the shares of Registrable Common Stock (or other securities) subject to the foregoing restriction until the end of said period. The foregoing shall not apply to (i) transactions relating to shares of Common Stock acquired in open market transactions after the effective date of the underwritten primary or secondary offering to the public, (ii) the exercise of any warrants or stock options to purchase shares of capital stock of the Company (provided that such limitation does not affect limitations on any actions

specified in the first sentence of this Section 5 with respect to the shares issuable upon such exercise), (iii) transfers to Affiliates of a Holder where the transferee agrees to be bound by the terms hereof, (iv) to any corporation controlled by a Holder or trust for the direct or indirect benefit of the undersigned or the immediate family of a Holder, provided that in the case of a transfer to any such trust that the trustee of the trust agrees to be bound in writing by the restrictions set forth herein, and provided further that any such transfer shall not involve a disposition for value other than for the benefit of the

undersigned's immediate family, (v) charitable dispositions of Securities, or (vi) as pledges of Registrable Common Stock in connection with the purchase of such Registrable Common Stock upon the exercise of employee stock options following termination of employment with the Company, provided that the lender or lenders to whom such Registrable Common Stock are pledged agree in writing to be bound by the terms of this restriction.

6. REGISTRATION PROCEDURES.

Whenever the Holders request that any Registrable Common Stock be registered pursuant to this Agreement, the Company shall use its best efforts to effect the registration and the sale of such Registrable Common Stock in accordance with the intended methods of disposition thereof, and pursuant thereto the Company shall as expeditiously as possible:

(a) prepare and file with the SEC a Registration Statement with respect to such Registrable Common Stock and use its best efforts to cause such Registration Statement to become effective as soon as practicable thereafter; and before filing a Registration Statement or Prospectus or any amendments or supplements thereto, furnish to the Holders of Registrable Common Stock covered by such Registration Statement and the underwriter or underwriters, if any, copies of all such documents proposed to be filed, including documents incorporated by reference in the Prospectus and, if requested by such Holders, the exhibits incorporated by reference, and such Holders shall have the opportunity to object to any information pertaining to such Holders that is contained therein and the Company will make the corrections reasonably requested by such Holders with respect to such information prior to filing any Registration Statement or amendment thereto or any Prospectus or any supplement thereto;

(b) prepare and file with the SEC such amendments and supplements to such Registration Statement and the Prospectus used in connection therewith as may be necessary to keep such Registration Statement effective for a period of not less than 180 days, in the case of a Demand Registration or a Shelf Registration, or such shorter period as is necessary to complete the distribution of the securities covered by such Registration Statement and comply with the provisions of the Securities Act with respect to the disposition of all securities covered by such Registration Statement during such period in accordance with the intended methods of disposition by the sellers thereof set forth in such Registration Statement;

(c) furnish to each seller of Registrable Common Stock such number of copies of such Registration Statement, each amendment and supplement thereto, the Prospectus included in such Registration Statement (including each preliminary Prospectus) and such other documents as such seller may reasonably request in order to facilitate the disposition of the Registrable Common Stock owned by such seller;

(d) use its best efforts to register or qualify such Registrable Common Stock under such other securities or blue sky laws of such jurisdictions as any seller reasonably requests and do any and all other acts and things which may be reasonably necessary or

advisable to enable such seller to consummate the disposition in such jurisdictions of the Registrable Common Stock owned by such seller (provided, that the Company will not be required to (i) qualify generally to do business in any jurisdiction where it would not otherwise be required to qualify but for

this subparagraph (d), (ii) subject itself to taxation in any such jurisdiction or (iii) consent to general service of process in any such jurisdiction);

(e) notify each seller of such Registrable Common Stock, at any time when a Prospectus relating thereto is required to be delivered under the Securities Act, of the occurrence of any event as a result of which the Prospectus included in such Registration Statement contains an untrue statement of a material fact or omits any fact necessary to make the statements therein not misleading, and, at the request of any such seller, the Company shall prepare a supplement or amendment to such Prospectus so that, as thereafter delivered to the purchasers of such Registrable Common Stock, such Prospectus shall not contain an untrue statement of a material fact or omit to state any material fact necessary to make the statements therein not misleading;

(f) in the case of an underwritten offering, enter into such customary agreements (including underwriting agreements in customary form) and take all such other actions as the Holders of a majority of number of shares of the Registrable Common Stock being sold or the underwriters, if any, reasonably request in order to expedite or facilitate the disposition of such Registrable Common Stock (including, without limitation, effecting a stock split or a combination of shares and making members of senior management of the Company available to participate in, and cause them to cooperate with the underwriters in connection with, "road-show" and other customary marketing activities (including one-on-one meetings with prospective purchasers of the Registrable Common Stock)) and cause to be delivered to the underwriters and the sellers, if any, opinions of counsel to the Company in customary form, covering such matters as are customarily covered by opinions for an underwritten public offering as the underwriters may request and addressed to the underwriters and the sellers;

(g) make available, for inspection by any seller of Registrable Common Stock, any underwriter participating in any disposition pursuant to such Registration Statement, and any attorney, accountant or other agent retained by any such seller or underwriter, all financial and other records, pertinent corporate documents and properties of the Company, and cause the Company's officers, directors, employees and independent accountants to supply all information reasonably requested by any such seller, underwriter, attorney, accountant or agent in connection with such Registration Statement;

(h) to use its best efforts to cause all such Registrable Common Stock to be listed on each securities exchange on which securities of the same class issued by the Company are then listed or, if no such similar securities are then listed, on Nasdaq or a national securities exchange selected by the Company;

(i) provide a transfer agent and registrar for all such Registrable Common Stock not later than the effective date of such Registration Statement;

(j) if requested, cause to be delivered, immediately prior to the effectiveness of the Registration Statement (and, in the case of an underwritten offering, at the time of delivery of any Registrable Common Stock sold pursuant thereto), letters from the Company's independent certified public accountants addressed to each selling Holder (unless such selling Holder does not provide to such accountants the appropriate representation letter required by rules governing the accounting profession) and each underwriter, if any, stating that such accountants are independent public accountants within the meaning of the Securities Act and the applicable rules and regulations adopted by the SEC thereunder, and otherwise in customary form and covering such financial and accounting matters as are customarily covered by letters of the independent certified public accountants delivered in connection with primary or secondary underwritten public offerings, as the case may be;

(k) make generally available to its stockholders a consolidated earnings statement (which need not be audited) for the 12 months beginning after the effective date of a Registration Statement as soon as reasonably practicable after the end of such period, which earnings statement shall satisfy the requirements of an earning statement under Section 11(a) of the Securities Act;

(l) promptly notify each seller of Registrable Common Stock and the underwriter or underwriters, if any:

(i) when the Registration Statement, any pre-effective amendment, the Prospectus or any Prospectus supplement or post-effective amendment to the Registration Statement has been filed and, with respect to the Registration Statement or any post-effective amendment, when the same has become effective;

(ii) of any written request by the SEC for amendments or supplements to the Registration Statement or Prospectus;

(iii) of the notification to the Company by the SEC of its initiation of any proceeding with respect to the issuance by the SEC of any stop order suspending the effectiveness of the Registration Statement; and

(iv) of the receipt by the Company of any notification with respect to the suspension of the qualification of any Registrable Common Stock for sale under the applicable securities or blue sky laws of any jurisdiction.

At all times after the Company has filed a registration statement with the SEC pursuant to the requirements of either the Securities Act or the Exchange Act, the Company shall file all reports required to be filed by it under the Securities Act and the Exchange Act and the rules and regulations adopted by the SEC thereunder, and take such further action as any Holders may reasonably request, all to the extent required to

enable such Holders to be eligible to sell Registrable Common Stock pursuant to Rule 144 (or any similar rule then in effect).

The Company may require each seller of Registrable Common Stock as to which any registration is being effected to furnish to the Company any other information regarding such seller and the distribution of such securities as the Company may from time to time reasonably request in writing.

Each seller of Registrable Common Stock agrees by having its stock treated as Registrable Common Stock hereunder that, upon notice of the happening of any event as a result of which the Prospectus included in such Registration Statement contains an untrue statement of a material fact or omits any material fact necessary to make the statements therein not misleading (a "Suspension Notice"), such seller will forthwith discontinue disposition of Registrable Common Stock until such seller is advised in writing by the Company that the use of the Prospectus may be resumed and is furnished with a supplemented or amended Prospectus as contemplated by Section 6(e) hereof, and, if so directed by the Company, such seller will deliver to the Company (at the Company's expense) all copies, other than permanent file copies then in such seller's possession, of the Prospectus covering such Registrable Common Stock current at the time of receipt of such notice; provided, however, that such postponement of sales of Registrable Common Stock by the Holders shall not exceed ninety (90) days in the aggregate in any one year. If the Company shall give any notice to suspend the disposition of Registrable Common Stock pursuant to a Prospectus, the Company shall extend the period of time during which the Company is required to maintain the Registration Statement effective pursuant to this Agreement by the number of days during the period from and including the date of the giving of such notice to and including the date such seller either is advised by the Company that the use of the Prospectus may be resumed or receives the copies of the supplemented or amended Prospectus contemplated by Section 6(e). In any event, the Company shall not be entitled to deliver more than three (3) Suspension Notices in any one year.

7. REGISTRATION EXPENSES.

(a) All expenses incident to the Company's performance of or compliance with this Agreement, including, without limitation, all registration and filing fees, fees and expenses of compliance with securities or blue sky laws, listing application fees, printing expenses, transfer agent's and registrar's fees, cost of distributing Prospectuses in preliminary and final form as well as any supplements thereto, and fees and disbursements of counsel

for the Company and all independent certified public accountants and other Persons retained by the Company (all such expenses being herein called "Registration Expenses") (but not including any underwriting discounts or commissions attributable to the sale of Registrable Common Stock or fees and expenses of more than one counsel representing the Holders of Registrable Common Stock), shall be borne by the Company. In addition, the Company shall pay its internal expenses (including, without limitation, all salaries and expenses of its officers and employees performing legal or accounting duties), the expense of any annual audit or quarterly

review, the expense of any liability insurance and the expenses and fees for listing the securities to be registered on each securities exchange on which they are to be listed.

(b) In connection with each registration initiated hereunder (whether a Demand Registration, Shelf Registration or a Piggyback Registration), the Company shall reimburse the Holders covered by such registration or sale for the reasonable fees and disbursements of one law firm chosen by the Holders of a majority of the number of shares of Registrable Common Stock included in such registration or sale.

(c) The obligation of the Company to bear the expenses described in Section 7(a) and to reimburse the Holders for the expenses described in Section 7(b) shall apply irrespective of whether a registration, once properly demanded, if applicable, becomes effective, is withdrawn or suspended, is converted to another form of registration and irrespective of when any of the foregoing shall occur; provided, however, that Registration Expenses for any Registration Statement withdrawn solely at the request of a Holder of Registrable Common Stock (unless withdrawn following postponement of filing by the Company in accordance with Section 2(d)(i) or (ii)) or any supplements or amendments to a Registration Statement or Prospectus resulting from a misstatement furnished to the Company by a Holder shall be borne by such Holder.

8. INDEMNIFICATION.

(a) The Company shall indemnify, to the fullest extent permitted by law, each Holder, its officers, directors and Affiliates and each Person who controls such Holder (within the meaning of the Securities Act) against all losses, claims, damages, liabilities and expenses arising out of or based upon any untrue or alleged untrue statement of material fact contained in any Registration Statement, Prospectus or any amendment thereof or supplement thereto or any omission or alleged omission of a material fact required to be stated therein or necessary to make the statements therein not misleading or any violation or alleged violation by the Company of the Securities Act, the Exchange Act or applicable "blue sky" laws, except insofar as the same are made in reliance and in conformity with information relating to such Holder furnished in writing to the Company by such Holder expressly for use therein or caused by such Holder's failure to deliver to such Holder's immediate purchaser a copy of the Registration Statement or Prospectus or any amendments or supplements thereto (if the same was required by applicable law to be so delivered) after the Company has furnished such Holder with a sufficient number of copies of the same. In connection with an underwritten offering, the Company shall indemnify such underwriters, their officers and directors and each Person who controls such underwriters (within the meaning of the Securities Act) to the same extent as provided above with respect to the indemnification of the Holders.

(b) In connection with any Registration Statement in which a Holder of Registrable Common Stock is participating, each such Holder shall furnish to the Company in writing such information and affidavits as the Company reasonably requests for use in connection with any such Registration Statement or Prospectus and, shall indemnify, to the fullest extent permitted by law, the Company, its officers, directors, Affiliates, and each Person who controls the Company (within the meaning of the

Securities Act) against all losses, claims, damages, liabilities and expenses arising out of or based upon any untrue or alleged untrue statement of material fact contained in the Registration Statement, Prospectus or preliminary

Prospectus or any amendment thereof or supplement thereto or any omission or alleged omission of a material fact required to be stated therein or necessary to make the statements therein not misleading, but only to the extent that the same are made in reliance and in conformity with information relating to such Holder furnished in writing to the Company by such Holder expressly for use therein or caused by such Holder's failure to deliver to such Holder's immediate purchaser a copy of the Registration Statement or Prospectus or any amendments or supplements thereto (if the same was required by applicable law to be so delivered) after the Company has furnished such Holder with a sufficient number of copies of the same; provided, however, that the obligation to indemnify shall be several, not joint and several, among such Holders and the liability of each such Holder shall be in proportion to and limited to the net amount received by such Holder from the sale of Registrable Common Stock pursuant to such Registration Statement.

(c) Any Person entitled to indemnification hereunder shall (i) give prompt written notice to the indemnifying party of any claim with respect to which it seeks indemnification and (ii) unless in such indemnified party's reasonable judgment a conflict of interest between such indemnified and indemnifying parties may exist with respect to such claim, permit such indemnifying party to assume the defense of such claim with counsel reasonably satisfactory to the indemnified party. If such defense is assumed, the indemnifying party shall not be subject to any liability for any settlement made by the indemnified party without its consent (but such consent will not be unreasonably withheld). An indemnifying party who is not entitled to, or elects not to, assume the defense of a claim shall not be obligated to pay the fees and expenses of more than one counsel for all parties indemnified by such indemnifying party with respect to such claim, unless in the reasonable judgment of any indemnified party there may be one or more legal or equitable defenses available to such indemnified party which are in addition to or may conflict with those available to another indemnified party with respect to such claim. Failure to give prompt written notice shall not release the indemnifying party from its obligations hereunder.

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

(e) If the indemnification provided for in or pursuant to this Section 8 is due in accordance with the terms hereof, but is held by a court to be unavailable or unenforceable in respect of any losses, claims, damages, liabilities or expenses referred to herein, then each applicable indemnifying party, in lieu of indemnifying such indemnified party, shall contribute to the amount paid or payable by such indemnified Person as a result of such losses, claims, damages, liabilities or expenses in such proportion as is appropriate to reflect the relative fault of the indemnifying party on the one hand and of the indemnified party on the other in connection with the statements or omissions which result in such losses, claims, damages, liabilities or expenses as well as

any other relevant equitable considerations. The relative fault of the indemnifying party on the one hand and of the indemnified Person on the other shall be determined by reference to, among other things, whether the untrue or alleged untrue statement of a material fact or the omission or alleged omission to state a material fact relates to information supplied by the indemnifying party or by the indemnified party, and by such party's relative intent, knowledge, access to information and opportunity to correct or prevent such statement or omission. In no event shall the liability of any selling Holder be greater in amount than the amount of net proceeds received by such Holder upon such sale or the amount for which such indemnifying party would have been obligated to pay by way of indemnification if the indemnification provided for under Section 8(a) or 8(b) hereof had been available under the circumstances.

9. PARTICIPATION IN UNDERWRITTEN REGISTRATIONS.

No Person may participate in any registration hereunder that is underwritten unless such Person (a) agrees to sell such Person's securities on the basis provided in any underwriting arrangements approved by the Person or Persons entitled hereunder to approve such arrangements and (b) completes and executes all questionnaires, powers of attorney, indemnities, underwriting agreements and other documents required under the terms of such underwriting

arrangements.

10. RULE 144.

The Company covenants that it will file the reports required to be filed by it under the Securities Act and the Exchange Act and the rules and regulations adopted by the SEC thereunder, and it will take such further action as any Holder may reasonably request to make available adequate current public information with respect to the Company meeting the current public information requirements of Rule 144(c) under the Securities Act (to the extent such information is available), to the extent required to enable such Holder to sell Registrable Common Stock without registration under the Securities Act within the limitation of the exemptions provided by (i) Rule 144 under the Securities Act, as such Rule may be amended from time to time, or (ii) any similar rule or regulation hereafter adopted by the SEC. Upon the request of any Holder, the Company will deliver to such Holder a written statement as to whether it has complied with such information and requirements.

11. MISCELLANEOUS.

(a) Notices. All notices, requests and other communications to any party hereunder shall be in writing (including facsimile or similar writing) and shall be given,

If to the Company:

Arbor Realty Trust, Inc.
333 Earle Ovington Boulevard
Suite 900
Attention: Frederick C. Herbst

Uniondale, New York 11553
Facsimile No.: (516) 832-8043

with a copy to:

Alston & Bird LLP
601 Pennsylvania Avenue, N.W.
North Building, 10th Floor
Washington, D.C. 20004-2601
Attention: Jonathan H. Talcott, Esq.
Facsimile No.(202) 756-3333

If to a transferee Holder, to the address of such Holder set forth in the transfer documentation provided to the Company;

in each case with copies to:

Skadden, Arps, Slate, Meagher & Flom LLP
Four Times Square
New York, New York 10036-6522
Attention: David Goldschmidt, Esq.
Facsimile No.: (212) 735-2000

or such other address or facsimile number as such party (or transferee) may hereafter specify for the purpose by notice to the other parties. Each such notice, request or other communication shall be effective (a) if given by facsimile, when such facsimile is transmitted to the facsimile number specified in this Section and the appropriate facsimile confirmation is received or (b) if given by any other means, when delivered at the address specified in this Section.

(b) No Waivers. No failure or delay by any party in exercising any right, power or privilege hereunder shall operate as a waiver thereof nor shall any single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any other right, power or privilege. The rights and remedies herein provided shall be cumulative and not exclusive of any rights or remedies provided by law.

(c) Expenses. Except as otherwise provided for herein or otherwise agreed to in writing by the parties, all costs and expenses incurred in connection with the preparation of this Agreement shall be paid by the Company.

(d) Successors and Assigns. The provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns, it being understood that subsequent Holders of the Registrable Common Stock are intended third party beneficiaries hereof.

(e) Governing Law. This Agreement shall be construed in accordance with and governed by the law of the State of New York, without regard to principles of conflicts of law.

(f) Jurisdiction. Any suit, action or proceeding seeking to enforce any provision of, or based on any matter arising out of or in connection with, this Agreement or the transactions contemplated hereby may be brought in any federal or state court located in the County and State of New York, and each of the parties hereby consents to the jurisdiction of such courts (and of the appropriate appellate courts therefrom) in any such suit, action or proceeding and irrevocably waives, to the fullest extent permitted by law, any objection which it may now or hereafter have to the laying of the venue of any such suit, action or proceeding in any such court or that any such suit, action or proceeding which is brought in any such court has been brought in an inconvenient forum. Process in any such suit, action or proceeding may be served on any party anywhere in the world, whether within or without the jurisdiction of any such court. Without limiting the foregoing, each party agrees that service of process on such party as provided in Section 10(a) shall be deemed effective service of process on such party.

(g) Waiver of Jury Trial.

EACH OF THE PARTIES HERETO HEREBY IRREVOCABLY WAIVES ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL PROCEEDING ARISING OUT OF OR RELATED TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY.

(h) Counterparts; Effectiveness. This Agreement may be signed in any number of counterparts, each of which shall be an original, with the same effect as if the signatures thereto and hereto were upon the same instrument.

(i) Entire Agreement. This Agreement constitutes the entire agreement between the parties with respect to the subject matter of this Agreement and supersedes all prior agreements and understandings, both oral and written, between the parties with respect to the transactions contemplated herein. No provision of this Agreement or any other agreement contemplated hereby is intended to confer on any Person other than the parties hereto any rights or remedies.

(j) Captions. The captions herein are included for convenience of reference only and shall be ignored in the construction or interpretation hereof.

(k) Severability. If any term, provision, covenant or restriction of this Agreement is held by a court of competent jurisdiction or other authority to be invalid, void or unenforceable, the remainder of the terms, provisions, covenants and restrictions of this Agreement shall remain in full force and effect and shall in no way be affected, impaired or invalidated so long as the economic or legal substance of the transactions contemplated hereby is not affected in any manner materially adverse to any party. Upon such a determination, the parties shall negotiate in good faith to modify this Agreement so as to effect the original intent of the parties as closely as possible in an acceptable manner in order that the transactions contemplated hereby be consummated as originally contemplated to the fullest extent possible.

(l) Amendments. 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 prior written consent of the holders of a majority of the Conversion Shares (as constituted on the date hereof); provided, further, that the consent or agreement of the Company shall be required with regard to any termination, amendment, modification or supplement of, or waivers or consents to departures

from, the terms hereof, which affect the Company's obligations hereunder.

(m) Aggregation of Stock. All Registrable Common Stock held by or acquired by any Affiliated Persons will be aggregated together for the purpose of determining the availability of any rights under this Agreement.

(n) Equitable Relief. The parties hereto agree that legal remedies may be inadequate to enforce the provisions of this Agreement and that equitable relief, including specific performance and injunctive relief, may be used to enforce the provisions of this Agreement.

[Execution Page Follows]

IN WITNESS WHEREOF, this Registration Rights Agreement has been duly executed by each of the parties hereto as of the date first written above.

ARBOR REALTY TRUST, INC.

By: /s/ Frederick C. Herbst

Name: Frederick C. Herbst

Title: Chief Financial Officer, Treasurer and Secretary

ARBOR COMMERCIAL MORTGAGE, LLC

By: /s/ Frederick C. Herbst

Name: Frederick C. Herbst
Title: Chief Financial Officer

EXHIBIT 10.7

PAIRING AGREEMENT

THIS PAIRING AGREEMENT (this "Agreement") is made and entered into as of July 1, 2003, by and among Arbor Realty Trust, Inc., a Maryland corporation (the "REIT"), Arbor Commercial Mortgage, LLC, a New York limited liability company ("ACM"), Arbor Realty LPOP, Inc., a Delaware corporation ("LP"), Arbor Realty GPOP, Inc., a Delaware corporation ("GP"), and Arbor Realty Limited Partnership, a Delaware limited partnership (the "OP").

WHEREAS, concurrently with the execution of this Agreement, the REIT will file Articles Supplementary (the "Articles Supplementary") to its charter (as supplemented by the Articles Supplementary, the "REIT Charter") with the State Department of Assessments and Taxation of Maryland whereby the REIT will reclassify and designate 5,000,000 shares of its Preferred Stock as shares of Special Voting Preferred Stock, par value $0.01 per share (the "Special Voting Stock");

WHEREAS, concurrently with the execution of this Agreement, ACM and the OP are entering into a Contribution Agreement pursuant to which ACM will transfer certain assets and related liabilities to the OP and, in exchange therefor, the OP will issue to ACM (i) 3,146,724 operating partnership units of the OP (the "Initial OP Units") and (ii) 629,345 warrants (the "ACM Warrants"), which entitle the holders to purchase additional operating partnership units of the OP (the "Warrant OP Units" and, together with the Initial OP Units, the "Paired Common Units");

WHEREAS, concurrently with the issuance of the Initial OP Units, the REIT will issue to ACM 3,146,724 shares of Special Voting Stock and, upon the exercise of each ACM Warrant, the REIT will issue to the holder thereof a number of shares of Special Voting Stock equal to the number of Warrant OP Units issued by the OP in connection with the exercise of such ACM Warrant;

WHEREAS, the REIT Charter provides that the REIT shall not issue or agree to issue any shares of Special Voting Stock unless effective provision has been made for the simultaneous issuance by the OP of the same number of operating partnership units of the OP, and for the pairing of such shares of Special Voting Stock and operating partnership units;

WHEREAS, the OP and the REIT wish to enter into this Agreement for the purpose of further effectuating the pairing of shares of Special Voting Stock and the

Paired Common Units (the "Pairing"), including the establishment of the terms and conditions which will govern the issuance and the transfer of the shares of Special Voting Stock and the Paired Common Units.

NOW, THEREFORE, in consideration of the foregoing premises and the mutual agreements contained herein, the parties hereto agree as follows:

1. Transfer of Shares. Commencing on the date hereof and continuing until such time as this Agreement shall have been terminated in the manner provided herein:

   a. No share of Special Voting Stock shall be transferable, and no such share shall be transferred on the stock transfer books of the REIT, unless a simultaneous transfer is made by the same transferor to the same transferee of the same number of Paired Common Units.

   b. No Paired Common Unit shall be transferable, and no Paired Common Unit shall be transferred on the books of the OP, unless a simultaneous transfer is made by the same transferor to the same transferee of the same number of shares of Special Voting Stock.

   c. Notwithstanding anything to the contrary contained herein, upon any acquisition by the OP, the LP, the GP or the REIT of any Paired Common Units and any shares of Special Voting Stock (whether pursuant to Section 8.6 of the OP Agreement or

otherwise), all restrictions on transfer set forth in this Agreement with respect to such Paired Common Units so acquired shall terminate, and any Paired Common Units acquired by the OP, the LP, the GP or the REIT may be transferred without regard to the restrictions set forth in this Agreement. The shares of Special Voting Stock shall be redeemed and cancelled in accordance with the terms of the Articles Supplementary.

d. In the event that any shares of Special Voting Stock are transferred to a trust pursuant to the provisions of Section 7.2(b) of the REIT Charter, all of the Paired Common Units paired with such shares shall be

automatically transferred to such trust concurrently therewith and shall be subject to all the provisions of Section 7.3 of the REIT Charter to the same extent that the attached shares of Special Voting Stock are so subject.

2. Issuance of Securities. Commencing on the date hereof and continuing until such time as this Agreement shall have been terminated in the manner provided herein:

a. The REIT shall not issue or agree to issue any shares of Special Voting Stock to any person unless effective provision has been made for the simultaneous issuance or transfer to the same person of the same number of Paired Common Units and for the pairing of such shares of Special Voting Stock and Paired Common Units.

b. The OP shall not issue or agree to issue any Paired Common Units to any person unless effective provision has been made for the simultaneous issuance or transfer to the same person of the same number of shares of Special Voting Stock and for the pairing of such Paired Common Units and shares of Special Voting Stock.

c. Upon the issuance by the REIT of a share of Special Voting Stock to any person, the REIT shall contribute any cash proceeds or other consideration received from the issuance of such share (the "Per Share REIT Consideration") to the LP, which, in turn, shall contribute such Per Share REIT Consideration to the OP in exchange for one Class A Preferred Unit of the OP (a "Preferred Unit").

3. Stock Certificates. Commencing on the date hereof and continuing until such time as this Agreement shall have been terminated in the manner provided herein:

a. Each certificate which is issued representing shares of Special Voting Stock shall be printed "back-to-back" with a certificate evidencing the

same number of Paired Common Units and shall bear a conspicuous legend (on the face thereof) referring to the restrictions on transfer set forth in Section 5 of the Articles Supplementary and this Agreement.

b. Each certificate which is issued evidencing Paired Common Units shall be printed "back-to-back" with a certificate representing the same number of shares of Special Voting Stock and shall bear a conspicuous legend (on the face thereof) referring to the restrictions on transfer set forth in this Agreement.

4. Redemption by the OP or Acquisition by the REIT of Paired Common Units. Commencing on the date hereof and continuing until such time as this Agreement shall have been terminated in the manner provided herein:

a. Prior to the redemption of any shares of Special Voting Stock

pursuant to Section 8 of the Articles Supplementary (the "Shares"):

i. The OP shall redeem a number of Preferred Units equal to the number of Shares for $.01 in cash per Preferred Unit pursuant to Section 4.11 of the partnership agreement of the OP, which amount shall be paid in its entirety in immediately available funds to the LP (the "LP Payment").

ii. Immediately following the completion of the LP Payment, the LP shall distribute the proceeds of such LP Payment to the REIT in immediately available funds, which amount shall be set aside by the REIT, separate and apart from its other funds, to redeem the Shares pursuant to Section 8 of the Articles Supplementary.

b. All shares of Special Voting Stock redeemed by the REIT pursuant to Section 8 of the Articles Supplementary shall be cancelled automatically and shall become authorized but unissued shares of Special Voting Stock in accordance with the Articles Supplementary, and all certificates representing such shares held by the OP shall be delivered to the REIT for cancellation promptly following the effectiveness of such redemption.

5. Stock Dividends, Reclassifications, etc. Commencing on the date hereof and continuing until such time as this Agreement shall have been terminated in the manner provided herein:

a. The REIT shall not (i) declare or pay any dividend in respect of the outstanding shares of Special Voting Stock consisting in whole or in part of shares of Special Voting Stock, or (ii) subdivide, combine or otherwise reclassify the outstanding shares of Special Voting Stock.

b. The OP shall not (i) declare or pay any dividend in respect of the outstanding Paired Common Units consisting in whole or in part of operating partnership units paired with shares of Special Voting Stock, or (ii) subdivide, combine or otherwise reclassify the outstanding Paired Common Units.

6. Termination. This Agreement and the Pairing may be terminated by mutual consent of the REIT, GP, LP and the OP.

7. Transfers. No Transfer of shares of Special Voting Stock or the Paired Common Units paired thereto may be made to any person, unless in each case prior to such Transfer any such transferee agrees in writing to be bound by the terms and conditions of this Agreement pursuant to a supplementary agreement reasonably satisfactory in form and substance to the REIT and the OP. For purposes of this Section 7, the term "Transfer" shall mean any direct or indirect sale, assignment, mortgage, transfer, pledge, gift, hypothecation or other disposition or transfer of, or any act creating a trust (voting or otherwise) with respect to shares of Special Voting Stock or the Paired Common

Units paired thereto.

8. No Restrictions on Issuances of Unpaired OP Units. This Agreement shall not be deemed to impose any restrictions or limitations on the ability of the OP to issue operating partnership units (other than the Paired Common Units or Preferred Units) that are not paired to shares of Special Voting Stock.

9. Amendment. This Agreement may be amended by the parties hereto by action taken or authorized by the Board of Directors of the REIT, LP and GP. This Agreement may not be amended except by an instrument in writing signed on behalf of each of the REIT, LP, GP and the OP.

10. Counterparts. This Agreement may be executed in counterparts, and each such counterpart hereof shall be deemed to be an original instrument, but all such counterparts together shall constitute but one agreement.

11. Governing Law. This Agreement shall be governed by, and construed in accordance with, the laws of the State of Maryland.

12. Entire Agreement. This Agreement contains the entire understanding and agreement between the parties with respect to its subject matter, and any and all conflicting or inconsistent discussions, agreements, promises, representations and statements, if any, between the parties or their representatives that are not incorporated in this Agreement shall be merged into this Agreement.

13. Headings. The various section headings are inserted for the purposes of reference only and shall not affect the meaning or interpretation of this Agreement or any provision hereof.

14. Severability. The provisions of this Agreement shall be severable, and any invalidity, unenforceability or illegality of any provision or provisions of this Agreement shall not affect any other provision or provisions of this Agreement, and each term and provision of this Agreement shall be construed to be

valid and enforceable to the full extent permitted by law.

IN WITNESS WHEREOF, each of the parties hereto has caused this Agreement to be executed on its behalf as of the date first written above.

ARBOR REALTY TRUST, INC.

By: /s/ Frederick C. Herbst

Name: Frederick C. Herbst
Title: Chief Financial Officer, Treasurer and Secretary

ARBOR REALTY LIMITED PARTNERSHIP

By: Arbor Realty GPOP, Inc., its general partner

By: /s/ Frederick C. Herbst

Name: Frederick C. Herbst
Title: Secretary and Treasurer

ARBOR COMMERCIAL MORTGAGE, LLC

By: /s/ Frederick C. Herbst

Name: Frederick C. Herbst
Title: Chief Financial Officer

ARBOR REALTY LPOP, INC.

By: /s/ Frederick C. Herbst

Name: Frederick C. Herbst
Title: Secretary and Treasurer

ARBOR REALTY GPOP, INC.

By: /s/ Frederick C. Herbst

Name: Frederick C. Herbst
Title: Secretary and Treasurer

EXHIBIT 10.8

ARBOR REALTY TRUST, INC.

2003 OMNIBUS STOCK INCENTIVE PLAN

SECTION 1. GENERAL PURPOSE OF PLAN; DEFINITIONS.

The name of this plan is the Arbor Realty Trust, Inc. 2003 Omnibus Stock Incentive Plan (the "Plan"). The Plan was adopted by the Board (defined below) on June 25, 2003 and approved by the stockholders of the Company (defined below) on July 1, 2003. The purpose of the Plan is to enable the Company to attract and retain highly qualified personnel who will contribute to the Company's success and to provide incentives to Participants (defined below) that are linked directly to stockholder value and will therefore inure to the benefit of all stockholders of the Company.

For purposes of the Plan, the following terms shall be defined as set forth below:

(a) "Administrator" means the Board, or if and to the extent the Board does not administer the Plan, the Committee in accordance with Section 2 below.

(b) "Award" means any award under the Plan.

(c) "Award Agreement" means, with respect to each Award, the signed written agreement between the Company and the Participant setting forth the terms and conditions of the Award.

(d) "Board" means the Board of Directors of the Company.

(e) "Code" means the Internal Revenue Code of 1986, as amended from time to time, or any successor thereto.

(f) "Committee" means any committee the Board may appoint to administer the Plan. If at any time or to any extent the Board shall not administer the

Plan, then the functions of the Board specified in the Plan shall be exercised by the Committee.

(g) "Common Stock" means the common stock, par value $.01 per share, of the Company.

(h) "Company" means Arbor Realty Trust, Inc., a Maryland corporation (or any successor corporation).

(i) "Disability" means the inability of a Participant to perform substantially his or her duties and responsibilities to the Company or to any Parent or Subsidiary by reason of a physical or mental disability or infirmity (i) for a continuous period of six months, or (ii) at such earlier time as the Participant submits medical evidence satisfactory to the Administrator that the Participant has a physical or mental disability or infirmity that will likely prevent the Participant from returning to the performance of the Participant's work duties for six months or longer. The date of such Disability shall be the last day of such six-month period or the day on which the Participant submits such satisfactory medical evidence, as the case may be.

(j) "Eligible Recipient" means an officer, director, employee, consultant (including employees of the Manager who provide services to the Company) or advisor of the Company or of any Parent or Subsidiary.

(k) "Fair Market Value" as of a particular date shall mean the fair market value of a share of Common Stock as determined by the Administrator in its sole discretion; provided, however, that (i) if the Common Stock is admitted to trading on a national securities exchange, fair market value of a share of Common Stock on any date shall be the closing sale price reported for such share on such exchange on such date or, if no sale was reported on such date, on the last date preceding such date on which a sale was

reported, (ii) if the Common Stock is admitted to quotation on the National Association of Securities Dealers Automated Quotation ("Nasdaq") System or other comparable quotation system and has been designated as a National Market System ("NMS") security, fair market value of a share of Common Stock on any date shall be the closing sale price reported for such share on such system on such date or, if no sale was reported on such date, on the last date preceding such date on which a sale was reported, or (iii) if the Common Stock is admitted to quotation on the Nasdaq System but has not been designated as an NMS security, fair market value of a share of Common Stock on any date shall be the average of the highest bid and lowest asked prices of such share on such system

on such date or, if no bid and ask prices were reported on such date, on the last date preceding such date on which both bid and ask prices were reported.

(l) "Manager" means Arbor Commercial Mortgage, LLC, a New York limited liability company.

(m) "Parent" means any corporation (other than the Company) in an unbroken chain of corporations ending with the Company, if each of the corporations in the chain (other than the Company) owns stock possessing 50% or more of the combined voting power of all classes of stock in one of the other corporations in the chain.

(n) "Participant" means any Eligible Recipient selected by the Administrator, pursuant to the Administrator's authority in Section 2 below, to receive awards of Restricted Stock.

(o) "Restricted Stock" means Shares subject to certain restrictions granted pursuant to Section 6 below.

(p) "Shares" means shares of Common Stock reserved for issuance under the Plan, as adjusted pursuant to Sections 3 and 4, and any successor security.

(q) "Subsidiary" means any corporation (other than the Company) in an unbroken chain of corporations beginning with the Company, if each of the corporations (other than the last corporation) in the unbroken chain owns stock possessing 50% or more of the total combined voting power of all classes of stock in one of the other corporations in the chain.

SECTION 2. ADMINISTRATION.

The Plan shall be administered by the Board or, at the Board's sole discretion, by the Committee, which shall be appointed by the Board, and which shall serve at the pleasure of the Board. Pursuant to the terms of the Plan, the Administrator shall have the power and authority:

(a) to select those Eligible Recipients who shall be Participants;

(b) to determine whether and to what extent awards of Restricted Stock are to be granted hereunder to Participants;

(c) to determine the number of Shares to be covered by each Award granted hereunder;

(d) to determine the terms and conditions, not inconsistent with the terms of the Plan, of each Award granted hereunder; and

(e) to determine the terms and conditions, not inconsistent with the terms of the Plan, which shall govern all written instruments evidencing awards of Restricted Stock granted hereunder.

The Administrator shall have the authority, in its sole discretion, to adopt, alter and repeal such administrative rules, guidelines and practices governing the Plan as it shall from time to time deem advisable; to interpret the terms and provisions of the Plan and any Award issued under the Plan (and any Award Agreement relating thereto); and to otherwise supervise the administration of the Plan.

All decisions made by the Administrator pursuant to the provisions of the Plan shall be final, conclusive and binding on all persons, including the Company and the Participants.

SECTION 3. SHARES SUBJECT TO PLAN.

The total number of shares of Common Stock reserved and available for issuance under the Plan shall be 185,000 shares. Such shares may consist, in whole or in part, of authorized and unissued shares or treasury shares.

To the extent that any Shares subject to any award of Restricted Stock are forfeited, such Shares shall again be available for issuance in connection with future Awards granted under the Plan.

SECTION 4. CORPORATE TRANSACTIONS.

In the event of any merger, reorganization, consolidation, recapitalization, stock dividend or other change in corporate structure affecting the Common Stock, an equitable substitution or proportionate adjustment shall be made in (i) the aggregate number of Shares reserved for issuance under the Plan, and (ii)

the kind, number and purchase price of Shares subject to outstanding awards of Restricted Stock granted under the Plan, in each case as may be determined by the Administrator, in its sole discretion. Such other substitutions or adjustments shall be made as may be determined by the Administrator, in its sole discretion. In connection with any event described in this paragraph, the Administrator may provide, in its sole discretion, for the cancellation of any outstanding awards and payment in cash or other property therefor.

SECTION 5. ELIGIBILITY.

Eligible Recipients shall be eligible to be granted awards of Restricted Stock or other awards. The Participants under the Plan shall be selected from time to time by the Administrator, in its sole discretion, from among the Eligible Recipients.

SECTION 6. RESTRICTED STOCK.

Awards of Restricted Stock may be issued either alone or in addition to other Awards granted under the Plan. The Administrator shall determine the Eligible Recipients to whom, and the time or times at which, awards of Restricted Stock shall be made; the number of Shares to be awarded; the price, if any, to be paid by the Participant for the acquisition of Restricted Stock; the Restricted Period (as defined in Section 6(b)) applicable to awards of Restricted Stock. The Administrator may also condition the grant of the award of Restricted Stock upon any such criteria as the Administrator may determine, in its sole discretion. The provisions of the awards of Restricted Stock need not be the same with respect to each Participant.

(a) Awards and Certificates. The prospective recipient of awards of Restricted Stock shall not have any rights with respect to any such Award, unless and until such recipient has executed an Award Agreement evidencing the Award (a "Restricted Stock Award Agreement") and delivered a fully executed copy thereof to the Company, within a period of sixty days (or such other period as the Administrator may specify) after the award date. Except as otherwise provided below in Section 6(b), each Participant who is granted an award of Restricted Stock shall be issued a stock certificate in respect of such shares of Restricted Stock, which certificate shall be registered in the name of the Participant and shall bear an appropriate legend referring to the terms, conditions, and restrictions applicable to any such Award.

The Company may require that the stock certificates evidencing Restricted Stock granted hereunder be held in the custody of the Company until the restrictions thereon shall have lapsed, and that, as a condition of any award of Restricted Stock, the Participant shall have delivered a stock power, endorsed in blank, relating to the Shares covered by such Award.

(b) Restrictions and Conditions. The awards of Restricted Stock granted pursuant to this Section 6 shall be subject to the following restrictions and conditions:

(i) Subject to the provisions of the Plan and the Restricted Stock Award Agreement governing any such Award, during such period as may be set by the Administrator commencing on the date of grant (the "Restricted Period"), the Participant shall not be permitted to sell, transfer, pledge or assign shares of Restricted Stock awarded under the Plan; provided, however, that the Administrator may, in its sole discretion, provide for the lapse of such restrictions in installments and may accelerate or waive such restrictions in whole or in part based on such factors and such circumstances as the Administrator may determine, in its sole discretion.

(ii) Except as provided in Section 6(b)(i), the Participant shall generally have the rights of a stockholder of the Company with respect to Restricted Stock during the Restricted Period. Certificates for unrestricted Shares shall be delivered to the Participant promptly after, and only after, the Restricted Period shall expire without forfeiture in respect of such awards of Restricted Stock except as the Administrator, in its sole discretion, shall otherwise determine.

(iii) The rights of Participants granted awards of Restricted Stock upon termination of employment or service as a director, consultant or advisor to the Company or to any Parent or Subsidiary terminates for any reason during the Restricted Period shall be set forth in the Restricted Stock Award Agreement governing such Awards.

SECTION 7. AMENDMENT AND TERMINATION.

The Board may amend, alter or discontinue the Plan, but no amendment, alteration, or discontinuation shall be made that would impair the rights of a Participant under any Award theretofore granted without such Participant's consent. To the extent necessary and desirable, the Board shall obtain approval of the stockholders (as described below), for any amendment that would:

(a) except as provided in Sections 3 or 4 of the Plan, increase the total number of Shares reserved for issuance under the Plan; or

(b) change the class of officers, directors, employees, consultants and advisors eligible to participate in the Plan.

The Administrator may amend the terms of any Award theretofore granted, prospectively or retroactively, but, subject to Section 4 of Plan, no such amendment shall impair the rights of any Participant without his or her consent.

SECTION 8. UNFUNDED STATUS OF PLAN.

The Plan is intended to constitute an "unfunded" plan for incentive compensation. With respect to any payments not yet made to a Participant by the Company, nothing contained herein shall give any such Participant any rights that are greater than those of a general creditor of the Company.

SECTION 9. GENERAL PROVISIONS.

(a) Shares shall not be issued pursuant to any Award granted hereunder unless such Award and the issuance and delivery of such Shares pursuant thereto shall comply with all relevant provisions of law, including, without limitation, the Securities Act of 1933, as amended, the Securities Exchange Act of 1934, as amended, and the requirements of any stock exchange upon which the Common Stock may then be listed, and shall be further subject to the approval of counsel for the Company with respect to such compliance.

(b) The Administrator may require each person acquiring Shares to represent to and agree with the Company in writing that such person is

acquiring the Shares without a view to distribution thereof. The certificates for such Shares may

include any legend which the Administrator deems appropriate to reflect any restrictions on transfer.

All certificates for Shares delivered under the Plan shall be subject to such stock-transfer orders and other restrictions as the Administrator may deem advisable under the rules, regulations, and other requirements of the Securities and Exchange Commission, any stock exchange upon which the Common Stock is then listed, and any applicable Federal or state securities law, and the Administrator may cause a legend or legends to be placed on any such certificates to make appropriate reference to such restrictions.

(c) Nothing contained in the Plan shall prevent the Board from adopting other or additional compensation arrangements, subject to stockholder approval, if such approval is required; and such arrangements may be either generally applicable or applicable only in specific cases. The adoption of the Plan shall not confer upon any Eligible Recipient any right to continued employment or service with the Company or any Parent or Subsidiary, as the case may be, nor shall it interfere in any way with the right of the Company or any Parent or Subsidiary to terminate the employment or service of any of its Eligible Recipients at any time.

(d) Each Participant shall, no later than the date as of which the value of an Award first becomes includible in the gross income of the Participant for Federal income tax purposes, pay to the Company, or make arrangements satisfactory to the Administrator regarding payment of, any Federal, state, or local taxes of any kind required by law to be withheld with respect to such Award. The obligations of the Company under the Plan shall be conditional on the Participant's making of such payments or arrangements, and the Company shall, to the extent permitted by law, have the right to deduct any such taxes from any payment of any kind otherwise due to the Participant.

(e) No member of the Board or the Administrator, nor any officer or employee of the Company acting on behalf of the Board or the Administrator, shall be personally liable for any action, determination, or interpretation taken or made in good faith with respect to the Plan, and all members of the Board or the Administrator and each and any officer or employee of the Company acting on their behalf shall, to the extent permitted by law, be fully indemnified and protected by the Company in respect of any such action, determination or interpretation.

SECTION 10. STOCKHOLDER APPROVAL; EFFECTIVE DATE OF PLAN.

(a) The grant of any Award hereunder shall be contingent upon stockholder approval of the Plan being obtained within 12 months before or after the date the Board adopts the Plan.

(b) Subject to the approval of the Plan by the stockholders of the Company within twelve (12) months before or after the date the Plan is adopted by the Board, the Plan shall be effective as of June 25, 2003 (the "Effective Date").

SECTION 11. TERM OF PLAN.

No Award shall be granted pursuant to the Plan on or after the tenth anniversary of the Effective Date, but Awards theretofore granted may extend beyond that date.

SECTION 12. GOVERNING LAW.

This Plan and all questions relating to its validity, interpretation, performance and enforcement shall be governed by and construed, interpreted and enforced in accordance with the laws of the State of New York, notwithstanding any New York or other conflict-of-law provisions to the contrary.

EXHIBIT 10.9

FORM OF
RESTRICTED STOCK AGREEMENT
PURSUANT TO THE
ARBOR REALTY TRUST, INC.
2003 OMNIBUS STOCK INCENTIVE PLAN

THIS RESTRICTED STOCK AGREEMENT (the "Agreement") is made by and between [Insert Name of Grantee] ("Grantee") and Arbor Realty Trust, Inc., a Maryland corporation (the "Company"), as of [Insert Date of Agreement].

WHEREAS, Grantee is currently [a director of the Company] [an executive officer of the Company] [an employee of the Company] [an employee of Arbor Commercial Mortgage, LLC, a New York limited liability company ("ACM"), who provides consulting services to the Company that are not in connection with the offer or sale of securities in a capital raising transaction or promoting or maintaining a market for securities of the Company (a "Consultant") pursuant to the terms of that certain Management Agreement, dated as of July 1, 2003 (the "Management Agreement"), by and among the Company, Arbor Realty Limited Partnership, a Delaware limited partnership and the operating partnership of the Company ("ARLP") and ACM, which provides for the management of the operations of the Company and ARLP by ACM]; and

WHEREAS, the Company has adopted the Arbor Realty Trust, Inc. 2003 Omnibus Stock Incentive Plan (the "Plan"), which provides for awards of restricted stock to selected officers, directors, employees, consultants and advisors; and

WHEREAS, on [Insert Date of Agreement] (the "Date of Grant"), the Board of Directors (the "Board") of the Company awarded the Grantee [Insert Number of Shares] shares of the Company's common stock, par value $0.01 (the "Common Stock"), pursuant to, and subject to the terms and provisions of the Plan.

NOW, THEREFORE, in consideration of the Grantee's services to the Company and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. Grant of Restricted Stock. Company hereby grants to Grantee [Insert Number of Shares] shares of restricted Common Stock and Grantee hereby accepts such shares, pursuant to and subject to the terms and provisions of the Plan and the Agreement (the "Restricted Stock").

2. Incorporation by Reference, Etc. The provisions of the Plan are hereby incorporated herein by reference. Except as otherwise expressly set forth herein, this Agreement shall be construed in accordance with the provisions of the Plan and any capitalized terms not otherwise defined in this Agreement shall have the definitions set forth in the Plan. The Administrator shall have final authority to interpret and construe the Plan and this Agreement and to make any and all determinations thereunder, and its

decision shall be binding and conclusive upon the Grantee and his/her legal representative in respect of any questions arising under the Plan or this Agreement.

3. Escrow of Restricted Stock. To insure the availability for delivery of the Grantee's Restricted Stock, the Grantee hereby appoints the Secretary of the Company, or any other person designated by the Company as escrow agent, as its attorney-in-fact to assign and transfer unto the Company such Restricted Stock, if any, forfeited by the Grantee pursuant to Section 6 below and shall, upon execution of this Agreement, deliver and deposit with the Secretary of the Company, or such other person designated by the Company, the share certificates representing the Restricted Stock, together with the stock assignment duly endorsed in blank, attached hereto as Exhibit A. The Restricted Stock and stock assignment shall be held by the Secretary in escrow, pursuant to the Joint Escrow Instructions of the Company and the Grantee attached hereto as Exhibit B, until the Restricted Period (as defined below) has lapsed with respect to the shares of Restricted Stock, or until such time as this Agreement no longer is in effect. Upon such time as the Restricted Period

has lapsed pursuant to the schedule set forth in Section 4 below and subject to the forfeiture provisions of Section 6 below, the escrow agent shall promptly deliver to the Grantee the certificate or certificates representing such shares of Restricted Stock in the escrow agent's possession belonging to the Grantee in accordance with the terms of the Joint Escrow Instructions, and the escrow agent shall be discharged of all further obligations hereunder; provided, however, that the escrow agent shall nevertheless retain such certificate or certificates if so required pursuant to other restrictions imposed pursuant to this Agreement.

4. Restrictions and Restricted Period.

a. Restrictions. Shares of Restricted Stock granted hereunder may not be sold, assigned, transferred, pledged, hypothecated or otherwise disposed of and shall be subject to a risk of forfeiture as described in Section 6 below until the lapse of the Restricted Period (as defined below).

b. Restricted Period. Unless the Restricted Period is previously terminated pursuant to Section 6 of this Agreement, the restrictions set forth above shall lapse and the shares of Restricted Stock shall become fully and freely transferable (provided, that such transfer is otherwise in accordance with federal and state securities laws) and non-forfeitable as to [Insert Vesting Terms] of the shares of Restricted Stock (rounded down to the nearest whole share) on the Date of Grant and as to an additional [Insert Vesting Terms] of the shares of Restricted Stock (rounded down to the nearest whole share) on the [Insert Vesting Dates] anniversary of the Date of Grant (the "Restricted Period") as set forth below:

Date of Grant or Release from Restricted Period	Fraction of Shares Released from Restricted Period
[Insert Date of Agreement]	[Insert Vesting Terms]
[Insert Vesting Date]	[Insert Vesting Terms]
[Insert Vesting Date]	[Insert Vesting Terms]
[Insert Vesting Date]	[Insert Vesting Terms]

Notwithstanding anything to the contrary, the release of the shares of Restricted Stock hereunder shall be conditioned upon Grantee making adequate provision for federal, state or other tax withholding obligations, if any, which arise upon the release of the shares from the Restricted Period (unless a Section 83(b) election has been filed), whether by withholding, direct payment to the Company, or otherwise.

c. Change in Control. Notwithstanding anything in this Agreement to the contrary, in the event of a Change in Control, all restrictions shall lapse as of the date of the Change in Control. A "Change in Control" shall occur if:

i. any "person", as such term is used in Sections 13(d) and 14(d) of the Securities Exchange Act of 1934, as amended (the "Exchange Act"), is or becomes the "beneficial owner", as such term is used in Rule 13d-3 under the Exchange Act, directly or indirectly, of securities of the Company (not including in the securities beneficially owned by such person any securities acquired directly from the Company or its affiliates) representing 25% or more of the combined voting power of the Company's then outstanding securities, excluding any person who becomes such a beneficial owner in connection with a transaction described in clause (A) of paragraph (iii) below; or

ii. the following individuals cease for any reason to constitute a majority of the number of directors then

serving: individuals who, on the date hereof, constitute the Board and any new director (other than a director whose initial assumption of office is in connection with an actual or threatened election contest, including but not limited to a consent solicitation, relating to the election of directors of the Company) whose appointment or election by the Board or nomination for election by the Company's stockholders was approved or recommended by a vote of at least two-thirds (2/3) of the directors then still in office who either were directors on the date hereof or whose appointment, election or nomination for election was previously so approved or recommended; or

iii. there is consummated a merger or consolidation of the Company or any direct or indirect subsidiary of the Company with any other corporation, other than (A) a merger or consolidation which would result in the voting securities of the Company outstanding immediately prior to such merger or consolidation continuing to represent (either by remaining outstanding or by being converted into voting securities of the surviving entity or any parent thereof), at least 60% of the combined voting power of the securities of the Company or such surviving entity or any parent thereof outstanding immediately after such merger or consolidation, or (B) a merger or consolidation effected to

implement a recapitalization of the Company (or similar transaction) in which no person is or becomes the "beneficial owner", directly or indirectly, of securities of the Company (not including in the securities "beneficially owned", as such term is used in Rule 13d-3 under the Exchange Act, by such person any securities acquired directly from the Company or its affiliates) representing 25% or more of the combined voting power of the Company's then outstanding securities; or

iv. the stockholders of the Company approve a plan of complete liquidation or dissolution of the Company or there is consummated an agreement for the sale or disposition by the Company of all or substantially all of the Company's assets, other than a sale or disposition by the Company of all or substantially all of the Company's assets to an entity, at least 60% of the combined voting power of the voting securities of which are owned by stockholders of the Company in substantially the same proportions as their ownership of the Company immediately prior to such sale.

5. Rights of a Stockholder. From and after the Date of Grant and for so long as the Restricted Stock is held by or for the benefit of the Grantee, the Grantee shall have all the rights of a stockholder of the Company with respect to the Restricted Stock, including, but not limited to, the right to receive dividends and the right to vote such shares of Restricted Stock.

6. Cessation of Service. In the event of the Cessation of Service (as defined below), the shares of Restricted Stock and any and all accrued but unpaid dividends that at that time have not been released from the Restricted Period, shall be forfeited to the Company without payment of any consideration by the Company, and neither the Grantee nor any of his successors, heirs, assigns, or personal representatives shall thereafter have any further rights or interests in such shares of Restricted Stock or certificates.

The "Cessation of Service" means the cessation of all services of Grantee to the Company which shall be deemed to occur [at the time of Grantee's termination of employment by the Company for any reason.] [at such time that the Grantee no longer serves as a director of the Company for any reason.] [at such time that the Grantee no longer serves as an executive officer of the Company for any reason.] [at such time that the Grantee no longer serves as a Consultant for any reason. For the avoidance of doubt, the cessation of Grantee's service as a Consultant shall be deemed to occur upon the earlier of (i) the cessation of the Grantee's employment with ACM, or (ii) the later of the termination or regular expiration of (A) the Management Agreement or (B) the Origination Period (as defined in the Management Agreement).]

[Insert the following Section 7 in the Restricted Stock Agreement with each director and executive officer:

7. Representations and Warranties of the Grantee. The Grantee hereby

represents and warrants to the Company and to each officer, director, controlling person and agent of the Company:

a. The Grantee is an individual "accredited investor", as defined in Rule 501(a)(4) under the Securities Act of 1933, as amended (the "Securities Act"), in that the Grantee is a director, executive officer or general partner of the Company.

b. The Grantee is acquiring the Restricted Stock not with a view to distribution or resale thereof or with any present intention of offering or selling the shares of Restricted Stock in violation of the Securities Act, the Plan, this Agreement or the Articles of Incorporation of the Company and the Grantee will not sell or offer to sell or otherwise transfer the shares of Restricted Stock in violation of the Securities Act, the Plan, this Agreement or the Articles of Incorporation of the Company.

c. The Grantee acknowledges that the Grantee has been provided an opportunity to examine all documents and ask questions of, and has received answers thereto from the Company and its representatives regarding the business, management, and financial affairs of the Company and its subsidiaries, and the Grantee has obtained all information requested by him or her of the Company and its subsidiaries with respect to the acquisition of the Restricted Stock.

d. The Grantee has reviewed the terms and conditions of the Plan, provided to the Grantee by the Company, and the Grantee has conducted his or her own examination of the Company, the offering of the Restricted Stock and the Plan, including the merits and risks involved, in making an investment decision with respect to the Restricted Stock. The Grantee represents that the offering of the Restricted Stock was made only through direct, personal communication between the Grantee and the Company and its representatives and not through public solicitation or advertising.

e. The Grantee understands that (i) the shares of Restricted Stock have not been registered under the Securities Act, in reliance on an exemption from the registration requirements of the Securities Act pursuant to Section 4(2) thereof; (ii) the Company has no obligation to register the Restricted Stock under the Securities Act or any state securities laws; (iii) the shares or Restricted Stock are subject to strict restrictions on transferability and may only be transferred in accordance with the Plan, this Agreement, the Articles of Incorporation of the Company and the Securities Act; (iv) the certificates, if any, representing shares of the Restricted Stock will bear a legend to such effect, and (v) the Company will make a notation on its transfer books to such effect.

f. The Grantee is able to bear the economic risk of an investment in the Restricted Stock and has adequate income independent of any income produced from an investment in the Restricted Stock to sustain a loss of all of his or her investment in the Restricted Stock without economic hardship if such loss should occur.

g. The Grantee is a bona fide resident and domiciliary of the state set forth on the signature page hereof and has no present intention to become a resident of any other state or jurisdiction.

h. The Grantee acknowledges that the Company will rely upon the Grantee's acknowledgements, representations and warranties set forth in this Agreement, and the Grantee agrees to notify the Company promptly if any representation or warranty in this Agreement ceases to be accurate and complete.]

8. Certificates. Restricted Stock granted herein may be evidenced in such manner as the Administrator shall determine. If certificates representing the shares of Restricted Stock are registered in the name of the Grantee, then the Company shall retain physical possession of the certificate.

9. Legends. All certificates representing any of the shares of Restricted Stock subject to the provisions of this Agreement shall have endorsed thereon the following legend:

"THE SHARES REPRESENTED BY THIS CERTIFICATE ARE SUBJECT TO CERTAIN RESTRICTIONS UPON TRANSFER AS SET FORTH IN A RESTRICTED STOCK AGREEMENT, DATED AS OF [INSERT DATE OF AGREEMENT], BETWEEN THE COMPANY AND THE HOLDER OF THE SHARES, A COPY OF WHICH IS ON FILE AT THE PRINCIPAL OFFICE OF THE COMPANY."

10. Tax Consequences. Set forth below is a brief summary as of the Date of Grant of certain United States federal tax consequences of the award of the Restricted Stock. THIS SUMMARY DOES NOT ADDRESS SPECIFIC STATE, LOCAL OR FOREIGN TAX CONSEQUENCES THAT MAY BE APPLICABLE TO GRANTEE. GRANTEE UNDERSTANDS THAT THIS SUMMARY IS NECESSARILY INCOMPLETE, AND THE TAX LAWS AND REGULATIONS ARE SUBJECT TO CHANGE.

The Grantee shall recognize ordinary income at the time or times the restrictions lapse with respect to the shares of Restricted Stock that have been released from the Restricted Period in an amount equal to the Fair Market Value (as such value is determined in accordance with Section 1(k) of the Plan) of such shares of Restricted Stock on each such date and the Company shall be required to collect all the applicable withholding taxes with respect to such income. The obligations of the Company under the Plan are conditioned on your making arrangements for the payment of any such taxes.

11. Section 83(b) Election. The Grantee hereby acknowledges that he has been informed that, with respect to the grant of Restricted Stock, an election may be filed by the Grantee with the Internal Revenue Service, within 30 days of the Date of Grant, electing pursuant to Section 83(b) of the Internal Revenue Code of 1986, as amended, to be taxed currently on the Fair Market Value of the Restricted Stock on the Date of Grant.

THE GRANTEE ACKNOWLEDGES THAT IT IS THE GRANTEE'S SOLE RESPONSIBILITY AND NOT THE COMPANY'S TO FILE TIMELY THE ELECTION UNDER SECTION 83(b) OF THE CODE, EVEN IF THE GRANTEE REQUESTS THE

COMPANY OR ITS REPRESENTATIVE TO MAKE THIS FILING ON THE GRANTEE'S BEHALF.

BY SIGNING THIS AGREEMENT, THE GRANTEE REPRESENTS THAT HE HAS REVIEWED WITH HIS OWN TAX ADVISORS THE FEDERAL, STATE, LOCAL AND FOREIGN TAX CONSEQUENCES OF THE TRANSACTIONS CONTEMPLATED BY THIS AGREEMENT AND THAT HE IS RELYING SOLELY ON SUCH ADVISORS AND NOT ON ANY STATEMENTS OR REPRESENTATIONS OF THE COMPANY OR ANY OF ITS AGENTS. THE GRANTEE UNDERSTANDS AND AGREES THAT HE (AND NOT THE COMPANY) SHALL BE RESPONSIBLE FOR ANY TAX LIABILITY THAT MAY ARISE AS A RESULT OF THE TRANSACTIONS CONTEMPLATED BY THIS AGREEMENT.

12. Termination of this Agreement. Upon termination of this Agreement, all rights of the Grantee hereunder shall cease.

13. Miscellaneous.

a. Notices. Any notice required or permitted under this Agreement shall be deemed given when delivered personally, or when deposited in a United States Post Office, postage prepaid, addressed, as appropriate, to the Grantee either at his address herein below set forth or such other address as he may designate in writing to the Company, or to the Company to the attention of the Secretary, at the Company's address or such other address as the Company may designate in writing to the Grantee.

b. Failure to Enforce Not a Waiver. The failure of the Company or the Grantee to enforce at any time any provision of this Agreement shall in no way be construed to be a waiver of such provision or of any other provision hereof.

c. Governing Law. This Agreement shall be governed by and construed according to the laws of the State of New York without giving effect to the choice of law principles thereof.

d. Amendments. This Agreement may be amended or modified at any time by an instrument in writing signed by the parties hereto.

e. Agreement Not a Contract of Employment. Neither the grant of Restricted Stock, this Agreement nor any other action taken in connection herewith shall constitute or be evidence of any agreement or understanding, express or implied, that the Grantee is an employee of the

Company or any subsidiary of the Company.

f. Entire Agreement; Plan Controls. This Agreement and the Plan contain the entire understanding and agreement of the parties hereto concerning the subject matter hereof, and supersede all earlier negotiations and understandings, written or oral, between the parties hereto with respect thereto. This Agreement is made under and subject to the provisions of the Plan, and all of the provisions of the Plan are hereby incorporated by reference into this Agreement. In the event of any conflict between the provisions of this Agreement and the provisions of the Plan, the provisions of the Plan shall govern. By

signing this Agreement, the Grantee confirms that he has received a copy of the Plan and has had an opportunity to review the contents thereof.

g. Captions. The captions and headings of the sections and subsections of this Agreement are included for convenience only and are not to be considered in construing or interpreting this Agreement.

h. Counterparts. This Agreement may be executed in counterparts, each of which when signed by the Company or the Grantee will be deemed an original and all of which together will be deemed the same agreement.

i. Assignment. The Company may assign its rights and delegate its duties under this Agreement. If any such assignment or delegation requires consent of any state securities authorities, the parties hereto agree to cooperate in requesting such consent. This Agreement shall inure to the benefit of the successors and assigns of the Company and, subject to the restrictions on transfer herein set forth, be binding upon the Grantee, his heirs, executors, administrators, successors and assigns.

j. Severability. This Agreement will be severable, and the invalidity or unenforceability of any term or provision hereof will not affect the validity or enforceability of this Agreement or of any other term or provision hereof. Furthermore, in lieu of any invalid or unenforceable term or provision, the parties hereto intend that there be added as a part of this Agreement a valid and enforceable provision as similar in terms to such invalid or unenforceable provision as may be possible.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day and year first above written.

ARBOR REALTY TRUST, INC.

By: _____
Name:
Title:

The undersigned hereby accepts and agrees to all the terms and provisions of the foregoing Agreement.

GRANTEE:

_____
[Insert Name of Grantee]

Number of Shares of Restricted Stock: [Insert Number of Shares]

Address: _____
_____
_____

State/Province of Residence: _____

Social Security Number: _____

EXHIBIT A

ASSIGNMENT SEPARATE FROM CERTIFICATE

FOR VALUE RECEIVED, [Insert Name of Grantee] (the "Grantee") hereby

assigns and transfers unto Arbor Realty Trust, Inc., a Maryland corporation (the "Company"), _____ shares of Company's common stock, par value $0.01 per share, standing in his name on the books of said corporation represented by Certificate No. _____ herewith and does hereby irrevocably constitute and appoint the Secretary to transfer the said stock on the books of the within named corporation with full power of substitution in the premises.

This Assignment Separate from Certificate may be used only in accordance with the Restricted Stock Agreement (the "Agreement") between the Company and the Grantee dated [Insert Date of Agreement].

Dated: _____, _____

_____
[Insert Name of Grantee]

INSTRUCTIONS: Please do not fill in any blanks other than the signature line. The purpose of this Assignment Separate from Certificate is to return the shares to the Company in the event the Grantee forfeits any of such shares as set forth in the Agreement, without requiring additional signatures on the part of the Grantee. This Assignment Separate from Certificate must be delivered to the Company with the above Certificate No. _____.

EXHIBIT B

JOINT ESCROW INSTRUCTIONS

[Insert Date of Agreement]

Arbor Realty Trust, Inc.
333 Earle Ovington Boulevard
Uniondale, New York 11553
Attention:

Dear Mr. :

As Escrow Agent for both Arbor Realty Trust, Inc., a Maryland corporation (the "Company"), and [Insert Name of Grantee] ("Grantee") of a certain number of shares of the Company's common stock, $0.01 par value per share (the "Shares") granted by the Company to the Grantee pursuant to the terms of that certain Restricted Stock Agreement between the Company and Grantee, dated [Insert Date of Agreement] (the "Agreement") you are hereby authorized and directed to hold the documents delivered to you pursuant to the terms of the Agreement, in accordance with the instructions set forth below. Except as otherwise expressly set forth herein, these instructions shall be construed in accordance with the provisions of the Agreement and any capitalized terms not otherwise defined herein shall have the definitions set forth in the Agreement.

1. In the event that the Grantee forfeits any Shares pursuant to the Agreement, you are directed (a) to date the Assignment Separate From Certificate necessary for the transfer to the Company, (b) to fill in the number of Shares being transferred, and (c) to deliver same, together with the certificate evidencing the Shares to be transferred, to the Company or its assignee.

2. Grantee hereby irrevocably authorizes the Company to deposit with you any certificates evidencing the Shares to be held by you hereunder and any additions and substitutions to said Shares as set forth in the Agreement. Grantee does hereby irrevocably constitute and appoint you as Grantee's attorney-in-fact and agent for the term of this escrow to execute with respect to such Shares all documents necessary or appropriate to make such Shares negotiable and to complete any transaction herein contemplated, including but not limited to, the filing with any applicable state blue sky authority of any required applications for consent to, or notice of transfer of, the Shares. Subject to the provisions of this Section 2, Grantee shall exercise all rights and privileges of a shareholder of the Company while the stock is being held by you.

3. Upon written request of the Grantee, unless the Grantee has forfeited Shares pursuant to Section 6 of the Agreement, you will deliver to Grantee a certificate or certificates representing the aggregate number of Shares that are not then subject to the Restricted Period. Within 60 days after Grantee's Cessation of Service as defined in

Section 6 of the Agreement, you will deliver to Grantee, or Grantee's representative, as the case may be, a certificate or certificates representing the aggregate number of Shares held or issued pursuant to the Agreement and not forfeited to the Company or its assignees pursuant to the Agreement.

4. If at the time of termination of this escrow you should have in your possession any documents, securities, or other property belonging to Grantee, you shall deliver all of the same to Grantee and shall be discharged of all further obligations hereunder.

5. Your duties hereunder may be altered, amended, modified or revoked only by a writing signed by all of the parties hereto.

6. You shall be obligated only for the performance of such duties as are specifically set forth herein and may rely and shall be protected in relying or refraining from acting on any instrument reasonably believed by you to be genuine and to have been signed or presented by the proper party or parties. You shall not be personally liable for any act you may do or omit to do hereunder as Escrow Agent or as attorney-in-fact for Grantee while acting in good faith, and any act done or omitted by you pursuant to the advice of your own attorneys shall be conclusive evidence of such good faith.

7. You are hereby expressly authorized to disregard any and all warnings given by any of the parties hereto or by any other person or corporation, excepting only orders or process of courts of law and are hereby expressly authorized to comply with and obey orders, judgments or decrees of any court. In case you obey or comply with any such order, judgment or decree, you shall not be liable to any of the parties hereto or to any other person, firm or corporation by reason of such compliance, notwithstanding any such order, judgment or decree being subsequently reversed, modified, annulled, set aside, vacated or found to have been entered without jurisdiction.

8. You shall not be liable in any respect on account of the identity, authorities or rights of the parties executing or delivering or purporting to execute or deliver the Agreement or any documents or papers deposited or called for hereunder.

9. You shall not be liable for the outlawing of any rights under the Statute of Limitations with respect to these Joint Escrow Instructions or any documents deposited with you.

10. You shall be entitled to employ such legal counsel and other experts as you may deem necessary and proper to advise you in connection with your obligations hereunder, may rely upon the advice of such counsel, and may pay such counsel reasonable compensation therefor.

11. Your responsibilities as Escrow Agent hereunder shall terminate if you shall cease to be an officer or agent of the Company or if you shall resign by written notice to each party. In the event of any such termination, the Company shall appoint a successor Escrow Agent.

12. If you reasonably require other or further instruments in connection with these Joint Escrow Instructions or obligations in respect hereto, the necessary parties hereto shall join in furnishing such instruments.

13. It is understood and agreed that should any dispute arise with respect to the delivery and/or ownership or right of possession of the securities held by you hereunder, you are authorized and directed to retain in your possession without liability to anyone all or any part of said securities until such disputes shall have been settled either by mutual written agreement of the parties concerned or by a final order decree or judgment of a court of competent jurisdiction after the time for appeal has expired and no appeal has been perfected, but you shall be under no duty whatsoever to institute or defend any such proceedings.

14. All notices and other communications under these Joint Escrow Instructions shall be in writing and shall be given by facsimile or first class mail, certified or registered with return receipt requested, and shall be deemed to have been duly given three days after mailing or 24 hours after transmission by facsimile to the respective parties named below at the following addresses or at such other addresses as a party may designate by ten day's advance written notice to each of the other parties hereto:

If to Company or to the
Escrow Agent:

Arbor Realty Trust, Inc.
333 Earle Ovington Boulevard
Uniondale, New York 11553
Attention: Secretary

Facsimile: (516) 832-8043
Attention: Secretary

If to the Grantee: _____
_____
_____

Facsimile: _____

15. By signing these Joint Escrow Instructions, you become a party hereto only for the purpose of said Joint Escrow Instructions; you do not become a party to the Agreement.

16. This instrument shall be binding upon and inure to the benefit of the parties hereto, and their respective successors and permitted assigns.

17. These Joint Escrow Instructions shall be governed by the internal substantive laws, but not the choice of law rules, of the State of New York.

GRANTEE:

_____
[Insert Name of Grantee]

_____
Print Name

_____

_____
Residence Address

ESCROW AGENT:

_____
Secretary

ARBOR REALTY TRUST, INC.

By: _____
Name:
Title:

EXHIBIT C

ELECTION UNDER SECTION 83(b)
OF THE INTERNAL REVENUE CODE OF 1986

The undersigned taxpayer hereby elects, pursuant to Section 83(b) of the Internal Revenue Code of 1986, as amended, to include in taxpayer's gross income for the current taxable year the amount of any compensation taxable to taxpayer in connection with taxpayer's receipt of the property described below:

1. The name address, taxpayer identification number and taxable year of the undersigned are as follows:

NAME OF TAXPAYER: _____

NAME OF SPOUSE: _____

ADDRESS: _____

IDENTIFICATION NO. OF TAXPAYER: _____

IDENTIFICATION NO. OF SPOUSE: _____

TAXABLE YEAR: _____

2. The property with respect to which the election is made is described as follows: _____ shares (the "Shares") of the Common Stock of Arbor Realty Trust, Inc. (the "Company").

3. The date on which the property was transferred is: _____, 20__.

4. The property is subject to the following restrictions:

The Shares may not be transferred and are subject to forfeiture under the terms of an agreement between the taxpayer and the Company. These restrictions lapse upon the satisfaction of certain conditions in such agreement.

5. The fair market value at the time of transfer, determined without regard to any restriction other than a restriction which by its terms will never lapse, of such property is: $ _____.

6. The amount (if any) paid for such property is: $ _____.

The undersigned has submitted a copy of this statement to the person for whom the services were performed in connection with the undersigned's receipt of the above-described property. The transferee of such property is the person performing the services

in connection with the transfer of said property.

The undersigned understands that the foregoing election may not be revoked except with the consent of the Commissioner.

Dated: _____, 20__

_____
Signature of Taxpayer

The undersigned spouse of taxpayer joins in this election.

Dated: _____, 20__

_____
Signature of Spouse of Taxpayer

EXHIBIT 10.10

BENEFITS PARTICIPATION AGREEMENT

This Agreement, dated as of July 1, 2003, is made by and between Arbor Management, LLC, a New York limited liability company ("ARBOR MANAGEMENT") and Arbor Realty Trust, Inc., a Maryland corporation (the "REIT").

WHEREAS, the REIT is a newly organized Maryland corporation formed to invest in a diversified portfolio of multi-family and commercial real estate related bridge and mezzanine loans, preferred equity investments and other real estate related assets ("STRUCTURED FINANCE INVESTMENTS");

WHEREAS, the REIT is offering 1,400,000 of its units, each of which consists of five shares of the REIT's common stock and one warrant to purchase a share of the REIT's common stock (the "UNITS OFFERING"), and the Units Offering is to be consummated on July 1, 2003;

WHEREAS, upon consummation of the Units Offering, Arbor Commercial Mortgage, LLC, a New York limited liability company ("ACM"), will release for employment by the REIT certain employees with experience in Structured Finance Investments ("FORMER ACM EMPLOYEES"), and the REIT intends to hire Former ACM Employees as well as other employees;

WHEREAS, Arbor Management, the managing member of ACM, currently maintains employee benefit plans for the benefit of ACM employees (the "ACM PLANS");

WHEREAS, the parties have been advised that under Section 414 of the Internal Revenue Code of 1986, as amended (the "CODE"), ACM, Arbor Management and the REIT are treated as a single employer for certain purposes under the Code;

WHEREAS, it is the intent of the parties that the employees of the REIT be permitted to participate in the ACM Plans, provided that such participation does not jeopardize the status of the ACM Plans as single employer plans;

NOW, THEREFORE, in consideration of the terms and conditions set forth herein and for other valuable consideration, the parties, intending to be legally bound, hereby agree as follows:

1. Term. The term of this Agreement shall commence on July 1, 2003, upon consummation of the Units Offering, and shall remain in effect for as long as that certain Management and Advisory Agreement between and among Arbor Reatly Trust, Inc., Arbor Realty Limited Partnership and Arbor Commercial Mortgage, LLC, dated July 1, 2003 shall remain in force and effect.

2. Participation in Benefit Plans. Arbor Management will permit the REIT employees to participate in each applicable employee benefit plan maintained by Arbor

Management, including, for each Former ACM Employee, the plans in which the Former ACM Employee was a participant while employed by ACM immediately prior to the consummation of the Units Offering. During the term of this Agreement, the REIT employees shall have the right to participate in and receive the benefit of any employee benefit plans that Arbor Management provides to similarly-situated ACM employees as though the REIT employees were employees of ACM. The REIT shall not be obligated to maintain any employee benefit plans for the benefit of its employees.

3. Invoicing and Payment of Benefit Plans. Arbor Management will charge the REIT an amount equal to the cost of providing benefits to each REIT employee, and the REIT shall be permitted to satisfy its obligations by making contributions, on behalf of its employees, to the benefit plans.

4. Change in Single Employer Status. If at any time the REIT, ACM and Arbor Management shall cease to be treated as a single employer under the provisions of Section 414 of the Code, then (unless at that time the REIT employees either (i) transfer their employment to ACM with the right of continued participation in the ACM Plans, or (ii) are terminated from the REIT without transfer to ACM) the parties shall use their best efforts to establish

an employee benefit program for the REIT employees that (i) in the aggregate is no less favorable than the employee benefit program in effect immediately prior to such change, and (ii) does not result in an interruption of employee benefit coverage for any of the REIT employees.

5. No Right to Continued Employment. Nothing contained herein shall confer upon any REIT employee or Former ACM Employee any right to continued employment with the REIT or ACM, as the case may be, nor shall it interfere in any way with the right of the REIT or ACM to terminate the employment or service of any of its employees, consultants or advisors at any time.

6. Assignment. This Agreement shall not be assigned by either party without the prior written consent of the other.

7. Notices. Unless expressly provided otherwise in this Agreement, all notices, requests, demands and other communications required or permitted under this Agreement shall be in writing and shall be deemed to have been duly given, made and received when delivered against receipt or upon actual receipt of (a) personal delivery, (b) delivery by a reputable overnight courier, (c) delivery by facsimile transmission against answerback, or (d) delivery by registered or certified mail, postage prepaid, return receipt requested, addressed as set forth below:

If to the REIT:

Arbor Realty Trust, Inc.
333 Earle Ovington Boulevard, Suite 900
Uniondale, New York 11553
Attention: Frederick C. Herbst
Facsimile: (516) 832-7408

If to Arbor Management:

Arbor Management, LLC

333 Earle Ovington Boulevard, Suite 900
Uniondale, New York 11553
Attention: Ivan Kaufman
Facsimile: (516) 832-8043

Either party may alter the address to which communications or copies are to be sent by giving notice of such change of address in conformity with the provisions of this Section 6 for the giving of notice.

8. Binding Nature of Agreement; Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, personal representatives, successors and permitted assigns as provided in this Agreement.

9. Entire Agreement. This Agreement contains the entire agreement and understanding among the parties hereto with respect to the subject matter hereof and supersedes all prior and contemporaneous agreements, understandings, inducements and conditions, express or implied, oral or written, of any nature whatsoever with respect to the subject matter of this Agreement. The express terms of this Agreement control and supersede any course of performance and/or usage of the trade inconsistent with any of the terms of this Agreement. This Agreement may not be modified or amended other than by an agreement in writing signed by the parties hereto.

10. Governing Law. This Agreement and all questions relating to its validity, interpretation, performance and enforcement shall be governed by and construed, interpreted and enforced in accordance with the laws of the State of New York, notwithstanding any New York or other conflict-of-law provisions to the contrary.

11. Titles Not to Affect Interpretation. The titles of sections, paragraphs and subparagraphs contained in this Agreement are for convenience only, and they neither form a part of this Agreement nor are they to be used in the construction or interpretation of this Agreement.

12. Execution in Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original as against any party whose signature appears thereon, and all of which shall together constitute one and the same instrument. This Agreement shall become binding when one or more counterparts of this Agreement, individually or taken together, shall bear the signatures of all of the parties reflected hereon as

the signatories.

13. Provisions Separable. The provisions of this Agreement are independent of and separable from each other, and no provision shall be affected or rendered invalid or unenforceable by virtue of the fact that for any reason any other or others of them may be invalid or unenforceable in whole or in part.

14. Principles of Construction. Words used herein regardless of the number and gender specifically used, shall be deemed and construed to include any other number, singular or plural, as the context requires. All references to recitals, sections, paragraphs

and schedules are to the recitals, sections, paragraphs and schedules in or to this Agreement unless otherwise specified.

15. Amendments. This Agreement may be amended only in a writing signed by the parties hereto.

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

ARBOR REALTY TRUST, INC.

By: /s/ Frederick C. Herbst

Name: Frederick C. Herbst

Title: Chief Financial Officer,

Treasurer and Secretary

ARBOR MANAGEMENT, LLC

By: /s/ Ivan Kaufman

Name: Ivan Kaufman

Title: President and Chief Executive Officer

EXHIBIT 10.11

INDEMNIFICATION AGREEMENT

THIS INDEMNIFICATION AGREEMENT is made and entered into this ____ day of _____, 2003 ("Agreement"), by and between Arbor Realty Trust, Inc., a Maryland corporation (the "Company"), and_____("Indemnitee").

WHEREAS, at the request of the Company, Indemnitee currently serves as a [DIRECTOR] [OFFICER] of the Company and may, therefore, be subjected to claims, suits or proceedings arising as a result of his service; and

WHEREAS, as an inducement to Indemnitee to continue to serve as such [DIRECTOR] [OFFICER], the Company has agreed to indemnify and to advance expenses and costs incurred by Indemnitee in connection with any such claims, suits or proceedings, to the fullest extent permitted by law; and

WHEREAS, the parties by this Agreement desire to set forth their agreement regarding indemnification and advance of expenses;

NOW, THEREFORE, in consideration of the premises and the covenants contained herein, the Company and Indemnitee do hereby covenant and agree as follows:

Section 1. Definitions. For purposes of this Agreement:

(a) "Change in Control" means a change in control of the Company occurring after the Effective Date of a nature that would be required to be reported in response to Item 6(e) of Schedule 14A of Regulation 14A (or in response to any similar item on any similar schedule or form) promulgated under the Securities Exchange Act of 1934 (the "Act"), whether or not the Company is then subject to such reporting requirement; provided, however, that, without limitation, such a Change in Control shall be deemed to have occurred if after the Effective Date (i) any "person" (as such term is used in Sections 13(d) and 14(d) of the Act) is or becomes the "beneficial owner" (as defined in Rule 13d-3 under the Act), directly or indirectly, of securities of the Company representing 15% or more of the combined voting power of the Company's then outstanding securities without the prior approval of at least two-thirds of the members of the Board of Directors in office immediately prior to such person attaining such percentage interest; (ii) there occurs a proxy contest, or the Company is a party to a merger, consolidation, sale of assets, plan of liquidation or other reorganization not approved by at least two-thirds of the members of the Board of Directors then in office, as a consequence of which members of the Board of Directors in office immediately prior to such transaction or event constitute less than a majority of the Board of Directors thereafter; or (iii) during any period of two consecutive years, other than as a result of an event described in clause (a)(ii) of this Section 1, individuals who at the beginning of such period constituted the Board of Directors (including for this purpose any new director whose election or

nomination for election by the Company's stockholders was approved by a vote of at least two-thirds of the directors then still in office who were directors at the beginning of such period) cease for any reason to constitute at least a majority of the Board of Directors.

(b) "Corporate Status" means the status of a person who is or was a director, trustee, officer, employee or agent of the Company or of any other corporation, partnership, joint venture, trust, employee benefit plan or other enterprise which such person is or was serving at the request of the Company.

(c) "Disinterested Director" means a director of the Company who is not and was not a party to the Proceeding in respect of which indemnification is sought by Indemnitee.

(d) "Effective Date" means the date set forth in the first paragraph of this Agreement.

(e) "Expenses" shall include all reasonable attorneys' fees, retainers, court costs, transcript costs, fees of experts, witness fees, travel expenses, duplicating costs, printing and binding costs, telephone charges, postage, delivery service fees, and all other disbursements or expenses of the types customarily incurred, in the geographic region in which the expenses are incurred or the services are provided, in connection with prosecuting, defending, preparing to prosecute or defend, investigating, or being or preparing to be a witness in a Proceeding.

(f) "Independent Counsel" means a law firm, or a member of a law firm, selected by the board of directors by vote as set forth in Section 9(b), that is experienced in matters of corporation law and neither presently is, nor in the past five years has been, retained to represent: (i) the Company or Indemnitee in any matter material to either such party, or (ii) any other party to the Proceeding giving rise to a claim for indemnification hereunder. Notwithstanding the foregoing, the term "Independent Counsel" shall not include any person who, under the applicable standards of professional conduct then prevailing, would have a conflict of interest in representing either the Company or Indemnitee in an action to determine Indemnitee's rights under this Agreement. If a Change of Control has not occurred, Independent Counsel shall be selected by the Board of Directors, with the approval of Indemnitee, which approval will not be unreasonably withheld. If a Change of Control has occurred, Independent Counsel shall be selected by Indemnitee, with the approval of the Board of Directors, which approval will not be unreasonably withheld.

(g) "Proceeding" includes any threatened, pending or completed action, suit, arbitration, alternate dispute resolution mechanism, investigation, administrative hearing or any other proceeding, whether civil, criminal, administrative or investigative (including on appeal), except one (i) initiated by an Indemnitee pursuant to Section 11 of this Agreement to enforce his rights under this Agreement or (ii) pending or completed on or before the Effective Date, unless otherwise specifically agreed in writing by the Company and Indemnitee.

Section 2. Services by Indemnitee. Indemnitee will serve as a [DIRECTOR] [OFFICER] of the Company. However, this Agreement shall not impose any obligation on Indemnitee or the Company to continue Indemnitee's service to the Company beyond any period otherwise required by law or by other agreements or commitments of the parties, if any.

Section 3. Indemnification - General. The Company shall indemnify, and advance Expenses to, Indemnitee (a) as provided in this Agreement and (b) otherwise to the fullest extent permitted by Maryland law in effect on the date hereof and as amended from time to time; provided, however, that no change in Maryland law shall have the effect of reducing the benefits available to Indemnitee hereunder based on Maryland law as in effect on the date hereof. The rights of Indemnitee provided in this Section 3 shall include, without limitation, the rights set forth in the other sections of this Agreement, including any additional indemnification permitted by Section 2-418(g) of the Maryland General Corporation Law ("MGCL").

Section 4. Proceedings Other Than Proceedings by or in the Right of the Company. Indemnitee shall be entitled to the rights of indemnification provided in this Section 4 if, by reason of his Corporate Status, he is, or is threatened to be, made a party to or a witness in any threatened, pending, or completed Proceeding, other than a Proceeding by or in the right of the Company. Pursuant to this Section 4, Indemnitee shall be indemnified against all judgments, penalties, fines, amounts paid in settlement and all Expenses actually and reasonably incurred by him or on his behalf in connection with a Proceeding by reason of his Corporate Status unless it is established that (i) the act or omission of Indemnitee was material to the matter giving rise to the Proceeding and (a) was committed in bad faith or (b) was the result of active and deliberate dishonesty, (ii) Indemnitee actually received an improper personal benefit in money, property or services, or (iii) in the case of any criminal Proceeding, Indemnitee had reasonable cause to believe that his conduct was unlawful.

Section 5. Proceedings by or in the Right of the Company. Indemnitee shall be entitled to the rights of indemnification provided in this Section 5

if, by reason of his Corporate Status, he is, or is threatened to be, made a party to or a witness in any threatened, pending or completed Proceeding brought by or in the right of the Company to procure a judgment in its favor. Pursuant to this Section 5, Indemnitee shall be indemnified against all amounts paid in settlement and all Expenses actually and reasonably incurred by him or on his behalf in connection with such Proceeding unless it is established that (i) the act or omission of Indemnitee was material to the matter giving rise to such a Proceeding and (a) was committed in bad faith or (b) was the result of active and deliberate dishonesty or (ii) Indemnitee actually received an improper personal benefit in money, property or services.

Section 6. Court-Ordered Indemnification. Notwithstanding any other provision of this Agreement, a court of appropriate jurisdiction, upon application of a [DIRECTOR] [OFFICER] and such notice as the court shall require, may order indemnification in the following circumstances:

(a) if it determines a [DIRECTOR] [OFFICER] is entitled to reimbursement under Section 2-418(d)(1) of the MGCL, the court shall order indemnification, in which case the [DIRECTOR] [OFFICER] shall be entitled to recover the expenses of securing such reimbursement; or

(b) if it determines that the [DIRECTOR] [OFFICER] is fairly and reasonably entitled to indemnification in view of all the relevant circumstances, whether or not the [DIRECTOR]

[OFFICER] (i) has met the standards of conduct set forth in Section 2-418(b) of the MGCL or (ii) has been adjudged liable for receipt of an improper personal benefit under Section 2-418(c) of the MGCL, the court may order such indemnification as the court shall deem proper. However, indemnification with respect to any Proceeding by or in the right of the Company or in which liability shall have been adjudged in the circumstances described in Section 2-418(c) of the MGCL shall be limited to Expenses.

Section 7. Indemnification for Expenses of a Party Who is Wholly or Partly Successful. Notwithstanding any other provision of this Agreement, and without limiting any such provision, to the extent that Indemnitee is, by reason of his Corporate Status, made a party to and is successful, on the merits or otherwise, in the defense of any Proceeding, he shall be indemnified for all Expenses actually and reasonably incurred by him or on his behalf in connection therewith. If Indemnitee is not wholly successful in such Proceeding but is successful, on the merits or otherwise, as to one or more but less than all claims, issues or matters in such Proceeding, the Company shall indemnify Indemnitee under this Section 7 for all Expenses actually and reasonably incurred by him or on his behalf in connection with each successfully resolved claim, issue or matter. For purposes of this Section and without limitation, the termination of any claim, issue or matter in such a Proceeding by dismissal, with or without prejudice, shall be deemed to be a successful result as to such claim, issue or matter.

Section 8. Advance of Expenses. The Company shall advance all reasonable Expenses incurred by or on behalf of Indemnitee in connection with any Proceeding to which Indemnitee is, or is threatened to be, made a party or a witness, within ten days after the receipt by the Company of a statement or statements from Indemnitee requesting such advance or advances from time to time, whether prior to or after final disposition of such Proceeding. Such statement or statements shall reasonably evidence the Expenses incurred by Indemnitee and shall include or be preceded or accompanied by a written affirmation by Indemnitee of Indemnitee's good faith belief that the standard of conduct necessary for indemnification by the Company as authorized by law and by this Agreement has been met and a written undertaking by or on behalf of Indemnitee, in substantially the form attached hereto as Exhibit A or in such form as may be required under applicable law as in effect at the time of the execution thereof, to reimburse any Expenses advanced to Indemnitee if it shall ultimately be determined that such standard of conduct has not been met or as required by Section 7 if Indemnitee is wholly or partly unsuccessful. The undertaking required by this Section 8 shall be an unlimited general obligation by or on behalf of Indemnitee and shall be accepted without reference to Indemnitee's financial ability to repay such advanced Expenses.

Section 9. Procedure for Determination of Entitlement to Indemnification.

(a) To obtain indemnification under this Agreement, Indemnitee shall submit to the Company a written request, including therein or therewith such documentation and information as is reasonably available to Indemnitee and is reasonably necessary to determine whether and to what extent Indemnitee is entitled to indemnification. The Secretary of the Company shall, promptly upon receipt of such a request for

indemnification, advise the Board of Directors in writing that Indemnitee has requested indemnification.

(b) Upon written request by Indemnitee for indemnification pursuant to the first sentence of Section 9(a) hereof, a determination, if required by applicable law, with respect to Indemnitee's entitlement thereto shall promptly be made in the specific case: (i) if a Change in Control shall have occurred, by Independent Counsel in a written opinion to the Board of Directors, a copy of which shall be delivered to Indemnitee; or (ii) if a Change of Control shall not have occurred, (A) by the Board of Directors (or a duly authorized committee thereof) by a majority vote of a quorum consisting of Disinterested Directors (as hereinafter defined), or (B) if a quorum of the Board of Directors consisting of Disinterested Directors is not obtainable or, even if obtainable, such quorum of Disinterested Directors so directs, by Independent Counsel in a written opinion to the Board of Directors, a copy of which shall be delivered to Indemnitee, or (C) if so directed by a majority of the members of the Board of Directors, by the stockholders of the Company; and, if it is so determined that Indemnitee is entitled to indemnification, payment to Indemnitee shall be made within ten days after such determination. Indemnitee shall cooperate with the person, persons or entity making such determination with respect to Indemnitee's entitlement to indemnification, including providing to such person, persons or entity upon reasonable advance request any documentation or information which is not privileged or otherwise protected from disclosure and which is reasonably available to Indemnitee and reasonably necessary to such determination. Any costs or Expenses (including reasonable attorneys' fees and disbursements) incurred by Indemnitee in so cooperating with the person, persons or entity making such determination shall be borne by the Company (irrespective of the determination as to Indemnitee's entitlement to indemnification) and the Company hereby agrees to indemnify and hold Indemnitee harmless therefrom.

Section 10. Presumptions and Effect of Certain Proceedings.

(a) In making a determination with respect to entitlement to indemnification hereunder, the person or persons or entity making such determination shall presume that Indemnitee is entitled to indemnification under this Agreement if Indemnitee has submitted a request for indemnification in accordance with Section 9(a) of this Agreement, and the Company shall have the burden of proof to overcome that presumption in connection with the making of any determination contrary to that presumption.

(b) The termination of any Proceeding by judgment, order, settlement, conviction, a plea of nolo contendere or its equivalent, or an entry of an order of probation prior to judgment, does not create a presumption that Indemnitee did not meet the requisite standard of conduct described herein for indemnification.

Section 11. Remedies of Indemnitee.

(a) If (i) a determination is made pursuant to Section 9 of this Agreement that Indemnitee is not entitled to indemnification under this Agreement, (ii) advance of

Expenses is not timely made pursuant to Section 8 of this Agreement, (iii) no determination of entitlement to indemnification shall have been made pursuant to Section 9(b) of this Agreement within 30 days after receipt by the Company of the request for indemnification, (iv)

payment of indemnification is not made pursuant to Section 7 of this Agreement within ten days after receipt by the Company of a written request therefor, or (v) payment of indemnification is not made within ten days after a determination has been made that Indemnitee is entitled to indemnification, Indemnitee shall be entitled to an adjudication in an appropriate court of the State of Maryland, or in any other court of competent jurisdiction, of his entitlement to such indemnification or advance of Expenses. Alternatively, Indemnitee, at his option, may seek an award in arbitration to be conducted by a single arbitrator pursuant to the commercial Arbitration Rules of the American Arbitration Association. Indemnitee shall commence such proceeding seeking an adjudication or an award in arbitration within 180 days following the date on which Indemnitee first has the right to commence such proceeding pursuant to this Section 11(a); provided, however, that the foregoing clause shall not apply in respect of a proceeding brought by Indemnitee to enforce his rights under Section 7 of this Agreement.

(b) In any judicial proceeding or arbitration commenced pursuant to this Section 11 the Company shall have the burden of proving that Indemnitee is not entitled to indemnification or advance of Expenses, as the case may be.

(c) If a determination shall have been made pursuant to Section 9(b) of this Agreement that Indemnitee is entitled to indemnification, the Company shall be bound by such determination in any judicial proceeding or arbitration commenced pursuant to this Section 11, absent a misstatement by Indemnitee of a material fact, or an omission of a material fact necessary to make Indemnitee's statement not materially misleading, in connection with the request for indemnification.

(d) In the event that Indemnitee, pursuant to this Section 11, seeks a judicial adjudication of or an award in arbitration to enforce his rights under, or to recover damages for breach of, this Agreement, Indemnitee shall be entitled to recover from the Company, and shall be indemnified by the Company for, any and all Expenses actually and reasonably incurred by him in such judicial adjudication or arbitration. If it shall be determined in such judicial adjudication or arbitration that Indemnitee is entitled to receive part but not all of the indemnification or advance of Expenses sought, the Expenses incurred by Indemnitee in connection with such judicial adjudication or arbitration shall be appropriately prorated.

Section 12. Defense of the Underlying Proceeding.

(a) Indemnitee shall notify the Company promptly upon being served with or receiving any summons, citation, subpoena, complaint, indictment, information, notice, request or other document relating to any Proceeding which may result in the right to indemnification or the advance of Expenses hereunder; provided, however, that the failure to give any such notice shall not disqualify Indemnitee from the right, or otherwise affect in any manner any right of Indemnitee, to indemnification or the advance

of Expenses under this Agreement unless the Company's ability to defend in such Proceeding or to obtain proceeds under any insurance policy is materially and adversely prejudiced thereby, and then only to the extent the Company is thereby actually so prejudiced.

(b) Subject to the provisions of the last sentence of this Section 12(b) and of Section 12(c) below, the Company shall have the right to defend Indemnitee in any Proceeding which may give rise to indemnification hereunder; provided, however, that the Company shall notify Indemnitee of any such decision to defend within 15 calendar days following receipt of notice of any such Proceeding under Section 12(a) above. The Company shall not, without the prior written consent of Indemnitee, which shall not be unreasonably withheld or delayed, consent to the entry of any judgment against Indemnitee or enter into any settlement or compromise which (i) includes an admission of fault of Indemnitee or (ii) does not include, as an unconditional term thereof, the full release of Indemnitee from all liability in respect

of such Proceeding, which release shall be in form and substance reasonably satisfactory to Indemnitee. This Section 12(b) shall not apply to a Proceeding brought by Indemnitee under Section 11 above or Section 18 below.

(c) Notwithstanding the provisions of Section 12(b) above, if in a Proceeding to which Indemnitee is a party by reason of Indemnitee's Corporate Status, (i) Indemnitee reasonably concludes, based upon the advice of counsel approved by the Company, which approval of counsel shall not be unreasonably withheld, that he may have separate defenses or counterclaims to assert with respect to any issue which may not be consistent with other defendants in such Proceeding, (ii) Indemnitee reasonably concludes, based upon the advice of counsel approved by the Company, which approval of counsel shall not be unreasonably withheld, that an actual or apparent conflict of interest or potential conflict of interest exists between Indemnitee and the Company, or (iii) if the Company fails to assume the defense of such Proceeding in a timely manner, Indemnitee shall be entitled to be represented by separate legal counsel of Indemnitee's choice, subject to the prior approval of the Company, which shall not be unreasonably withheld, at the expense of the Company. In addition, if the Company fails to comply with any of its obligations under this Agreement or in the event that the Company or any other person takes any action to declare this Agreement void or unenforceable, or institutes any Proceeding to deny or to recover from Indemnitee the benefits intended to be provided to Indemnitee hereunder, Indemnitee shall have the right to retain counsel of Indemnitee's choice, subject to the prior approval of the Company, which shall not be unreasonably withheld, at the expense of the Company, to represent Indemnitee in connection with any such matter.

Section 13. Non-Exclusivity; Survival of Rights; Insurance; Subrogation.

(a) The rights of indemnification and advance of Expenses as provided by this Agreement shall not be deemed exclusive of any other rights to which Indemnitee may at any time be entitled under applicable law, the Charter or Bylaws of the Company, any agreement or a resolution of the stockholders entitled to vote generally in the election of directors or of the Board of Directors, or otherwise. No amendment, alteration or repeal of this Agreement or of any provision hereof shall limit or restrict any right of Indemnitee

under this Agreement in respect of any action taken or omitted by such Indemnitee in his Corporate Status prior to such amendment, alteration or repeal.

(b) In the event of any payment under this Agreement, the Company shall be subrogated to the extent of such payment to all of the rights of recovery of Indemnitee, who shall execute all papers required and take all action necessary to secure such rights, including execution of such documents as are necessary to enable the Company to bring suit to enforce such rights.

(c) The Company shall not be liable under this Agreement to make any payment of amounts otherwise indemnifiable hereunder if and to the extent that Indemnitee has otherwise actually received such payment under any insurance policy, contract, agreement or otherwise.

Section 14. Insurance. The Company will use its reasonable best efforts to acquire directors and officers liability insurance, on terms and conditions deemed appropriate by the Board of Directors of the Company, with the advice of counsel, covering Indemnitee or any claim made against Indemnitee for service as a director or officer of the Company and covering the Company for any indemnification or advance of expenses made by the Company to Indemnitee for any claims made against Indemnitee for service as a director or officer of the Company. Without in any way limiting any other obligation under this Agreement, the Company shall indemnify Indemnitee for any payment by Indemnitee arising out of the amount of any deductible or retention and the amount of any excess of the aggregate of all judgments, penalties, fines, settlements and reasonable expenses incurred by Indemnitee in connection with a Proceeding over the coverage of any insurance referred to in the previous sentence.

Section 15. Indemnification for Expenses of a Witness. Notwithstanding any other provision of this Agreement, to the extent that Indemnitee is, by reason of his Corporate Status, a witness in any Proceeding, whether instituted by the Company or any other party, and to which Indemnitee is not a party, he shall be advanced all reasonable Expenses and indemnified against all Expenses actually and reasonably incurred by him or on his behalf in connection therewith.

Section 16. Duration of Agreement; Binding Effect.

(a) This Agreement shall continue until and terminate ten years after the date that Indemnitee shall have ceased to serve as a director, trustee, officer, employee, or agent of the Company or of any other corporation, partnership, joint venture, trust, employee benefit plan or other enterprise which Indemnitee served at the request of the Company; provided, that the rights of Indemnitee hereunder shall continue until the final termination of any Proceeding then pending in respect of which Indemnitee is granted rights of indemnification or advance of Expenses hereunder and of any proceeding commenced by Indemnitee pursuant to Section 11 of this Agreement relating thereto.

(b) The indemnification and advance of Expenses provided by, or granted pursuant to, this Agreement shall be binding upon and be enforceable by the parties

hereto and their respective successors and assigns (including any direct or indirect successor by purchase, merger, consolidation or otherwise to all or substantially all of the business or assets of the Company), shall continue as to an Indemnitee who has ceased to be a director, trustee, officer, employee or agent of the Company or of any other corporation, partnership, joint venture, trust, employee benefit plan or other enterprise which such person is or was serving at the request of the Company, and shall inure to the benefit of Indemnitee and his or her spouse, assigns, heirs, devisees, executors and administrators and other legal representatives.

(c) The Company shall require and cause any successor (whether direct or indirect by purchase, merger, consolidation or otherwise) to all, substantially all or a substantial part, of the business and/or assets of the Company, by written agreement in form and substance satisfactory to Indemnitee, expressly to assume and agree to perform this Agreement in the same manner and to the same extent that the Company would be required to perform if no such succession had taken place.

Section 17. Severability. If any provision or provisions of this Agreement shall be held to be invalid, illegal or unenforceable for any reason whatsoever: (a) the validity, legality and enforceability of the remaining provisions of this Agreement (including, without limitation, each portion of any section of this Agreement containing any such provision held to be invalid, illegal or unenforceable that is not itself invalid, illegal or unenforceable) shall not in any way be affected or impaired thereby; and (b) to the fullest extent possible, the provisions of this Agreement (including, without limitation, each portion of any section of this Agreement containing any such provision held to be invalid, illegal or unenforceable, that is not itself invalid, illegal or unenforceable) shall be construed so as to give effect to the intent manifested thereby.

Section 18. Exception to Right of Indemnification or Advance of Expenses. Notwithstanding any other provision of this Agreement, Indemnitee shall not be entitled to indemnification or advance of Expenses under this Agreement with respect to any Proceeding brought by Indemnitee, unless (a) the Proceeding is brought to enforce indemnification under this Agreement or otherwise or (b) the Company's Bylaws, as amended, the Charter, a resolution of the stockholders entitled to vote generally in the election of directors or of the Board of Directors or an agreement approved by the Board of Directors to which the Company is a party expressly provide otherwise.

Section 19. Identical Counterparts. This Agreement may be executed in one or more counterparts, each of which shall for all purposes be deemed to be an original but all of which together shall constitute one and the same

Agreement. One such counterpart signed by the party against whom enforceability is sought shall be sufficient to evidence the existence of this Agreement.

Section 20. Headings. The headings of the paragraphs of this Agreement are inserted for convenience only and shall not be deemed to constitute part of this Agreement or to affect the construction thereof.

Section 21. Modification and Waiver. No supplement, modification or amendment of this Agreement shall be binding unless executed in writing by both of the parties hereto. No waiver of any of the provisions of this Agreement shall be deemed or shall constitute a waiver of any other provisions hereof (whether or not similar) nor shall such waiver constitute a continuing waiver.

Section 22. Notice by Indemnitee. Indemnitee shall promptly notify the Company in writing upon being served with any summons, citation, subpoena, complaint, indictment, information or other document relating to any Proceeding or matter which may be subject to indemnification or advance of Expenses covered hereunder.

Section 23. Notices. All notices, requests, demands and other communications hereunder shall be in writing and shall be deemed to have been duly given if (i) delivered by hand and receipted for by the party to whom said notice or other communication shall have been directed, or (ii) mailed by certified or registered mail with postage prepaid, on the third business day after the date on which it is so mailed:

(a) If to Indemnitee, to: The address set forth on the signature page hereto.

(b) If to the Company to:

Arbor Realty Trust, Inc.
Suite 900
333 Earle Ovington Boulevard
Uniondale, New York 11553
Attn: Corporate Secretary

or to such other address as may have been furnished to Indemnitee by the Company or to the Company by Indemnitee, as the case may be.

Section 24. Governing Law. The parties agree that this Agreement shall be governed by, and construed and enforced in accordance with, the laws of the State of Maryland, without regard to its conflicts of laws rules.

Section 25. Miscellaneous. Use of the masculine pronoun shall be deemed to include usage of the feminine pronoun where appropriate.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day and year first above written.

ATTEST:

_____

ARBOR REALTY TRUST, INC.

By: _____ (SEAL)
Name: _____
Title: _____

WITNESS:

_____

INDEMNITEE

_____
Name: _____
Address: _____
_____

EXHIBIT A

FORM OF UNDERTAKING TO REPAY EXPENSES ADVANCED

The Board of Directors of Arbor Realty Trust, Inc.

Re: Undertaking to Repay Expenses Advanced

Ladies and Gentlemen:

This undertaking is being provided pursuant to that certain Indemnification Agreement dated the ___ day of _____, 2003, by and between Arbor Realty Trust, Inc. (the "Company") and the undersigned Indemnitee (the "Indemnification Agreement"), pursuant to which I am entitled to advance of expenses in connection with [DESCRIPTION OF PROCEEDING] (the "Proceeding").

Terms used herein and not otherwise defined shall have the meanings specified in the Indemnification Agreement.

I am subject to the Proceeding by reason of my Corporate Status or by reason of alleged actions or omissions by me in such capacity. I hereby affirm that at all times, insofar as I was involved as [A DIRECTOR] [AN OFFICER] of the Company, in any of the facts or events giving rise to the Proceeding, I (1) acted in good faith and honestly, (2) did not receive any improper personal benefit in money, property or services and (3) in the case of any criminal proceeding, had no reasonable cause to believe that any act or omission by me was unlawful.

In consideration of the advance of expenses by the Company for reasonable attorney's fees and related expenses incurred by me in connection with the Proceeding (the "Advanced Expenses"), I hereby agree that if, in connection with the Proceeding, it is established that (1) an act or omission by me was material to the matter giving rise to the Proceeding and (a) was committed in bad faith or (b) was the result of active and deliberate dishonesty or (2) I actually received an improper personal benefit in money, property or services or (3) in the case of any criminal proceeding, I had reasonable cause to believe that the act or omission was unlawful, then I shall promptly reimburse the Advanced Expenses to the Company.

IN WITNESS WHEREOF, I have executed this Affirmation and Undertaking on this ___ day of _____, 200__.

WITNESS:

_____

INDEMNITEE:

_____(SEAL)
Name: _____

EXHIBIT 21.1

Subsidiaries of Arbor Realty Trust, Inc.

Arbor Realty GPOP, Inc., a Delaware corporation
Arbor Realty LPOP, Inc., a Delaware corporation
Arbor Realty Limited Partnership, a Delaware limited partnership
ANMB Holdings LLC, a a New York limited liability company
ACM Gateway LLC, a Delaware limited liability company
Arbor Texas CDS, LLC, a New York limited liability company
ANMB Holdings II, LLC, a New York limited liability company
ACM Dutch Village, LLC, a Delaware limited liability company
ACM Evergreen, LLC, a New York limited liability company

Exhibit 23.1

CONSENT OF INDEPENDENT CERTIFIED PUBLIC ACCOUNTANTS

We have issued our report dated October 23, 2003, accompanying the consolidated financial statements of the Structured Finance Business of Arbor Commercial Mortgage, LLC and Subsidiaries and our report dated February 2, 2001, accompanying the financial statements of Mezzobridge Funding LLC contained in the S-11 Registration Statement of Arbor Realty Trust,Inc. We consent to the use of the aforementioned reports in the Registration Statement and to the use of our name as it appears under the caption "Experts."

/s/ Grant Thornton LLP

New York, New York
November 13, 2003