

RETROCOM GROWTH FUND INC.
as Vendor

- AND -

RETROCOM LIMITED PARTNERSHIP
as Purchaser

PURCHASE AGREEMENT

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AGREEMENT OF PURCHASE AND SALE

THIS AGREEMENT is made the 9th day of March, 2004

B E T W E E N:

RETROCOM LIMITED PARTNERSHIP

(the "Purchaser")

- and -

RETROCOM GROWTH FUND INC.

(the "Vendor")

IN WITNESS WHEREOF the Purchaser hereby offers to purchase, and the Vendor hereby agrees to sell to the Purchaser, the Purchased Assets (as hereinafter defined) on the terms and conditions hereinafter set forth:

ARTICLE 1 INTERPRETATION

1.1 Definitions

In this Agreement:

"Act" means the *Canada Business Corporations Act*, R.S.C. 1985, c. C-44 as amended and unless otherwise specified means such act as hereafter amended or restated and any successor legislation of comparable effect;

"Adjustments" means the adjustments to the Purchase Price as set out in Sections 2.9 to 2.12 inclusive;

"Affiliate" shall have the meaning ascribed thereto by the Act on the date hereof;

"Agreement" means the agreement arising from the execution hereof by the Vendor and the Purchaser, together with all schedules hereto and all instruments supplemental hereto or in amendment or confirmation hereof;

"Applicable Law" means any statute, law, ordinance, rule, regulation, by-law (zoning or otherwise), order, approval, permit, judgment, decree or restriction of any kind whatsoever that applies to the Purchaser, the Vendor or the Purchased Assets, as the case may be;

"Approved Leases" means the Leases together with any offers to lease or other agreements to lease space in the Property from time to time entered into by the Vendor after the date hereof and approved or deemed to be an Approved Lease pursuant to Section 7.2 hereof;

"Assumed Mortgage" means the mortgage registered against the Property as Instrument No. D518402 as amended and extended by Instrument No. DR188951 in the principal amount of \$6,600,000 in favour of Paularene Management Inc.;

"Approved Property Contracts" means the Property Contracts together with any contracts and agreements relating to the management, servicing, maintenance, repair and cleaning of the Property or the furnishing of supplies and services thereto from time to time entered into by the Vendor after the date hereof and approved by the Purchaser or deemed to be an Approved Property Contract pursuant to Section 7.2 hereof;

"Assumed Obligations" has the meaning ascribed thereto in Section 2.7;

"Buildings" means all buildings, structures, erections, fixtures, appurtenances and improvements constructed or affixed to the Lands;

"Business Day" means a day other than a Saturday or Sunday, on which Canadian chartered banks are open for the transaction of domestic business in Toronto, Ontario;

"Certificate of the Purchaser" means a certificate on behalf of the Purchaser executed by a senior officer of the Purchaser;

"Certificate of the Vendor" means a certificate on behalf of the Vendor executed by a senior officer of the Vendor;

"Closing" means the completion of the sale and purchase of the Purchased Assets pursuant to this Agreement;

"Closing Date" has the meaning attributed thereto in Section 7.15;

"Closing Document" means any document delivered at or subsequent to the Closing Time as provided in or pursuant to this Agreement;

"Closing Time" means 2:00 p.m. (Toronto time) on the Closing Date or such other time as the Parties may agree upon;

"Cut-Off Time" means 11:59 p.m. (Toronto time) on the day immediately preceding the Closing Date;

"Disclosure Date" means the date on which the last of the Immediate Deliveries have been made;

"Encumbrance" means any encumbrance of whatever kind and includes a security interest, lien, charge, pledge, hypothecation, encumbrance, mortgage, title retention agreement, easement, encroachment, right-of-way, restrictive covenant, license, lease, agreement, a Material Adverse Change or any other claim of any nature or kind, whether financial or otherwise, including, without

limitation, any work order, notice of violation, notice of non-compliance or other instrument issued by any board, commission tribunal or government department or agency;

"Environmental Reports" means all environmental and health and safety assessments, audits, investigations, surveys, analyses, and other reviews performed with respect to the Property and pertaining to the environment including but not limited to soil, air, groundwater or surface water and pertaining to health and safety matters which have been or will be provided to the Purchaser by the Vendor for the Purchaser's due diligence investigations;

"Equipment" means, collectively, all equipment, attachments, appliances, furnishings, chattels and tangible personal property owned by the Vendor necessary for or used in connection with the operation or maintenance of the Property, including all electric light fixtures and fittings, floor coverings, plumbing, heating, air-conditioning, fire prevention and alarm, drainage and ventilation and other mechanical and electrical systems installed therein but excluding those fixtures, chattels, equipment and improvements belonging to the Tenants of the Property or Persons other than the Vendor;

"Excluded Assets" means: (a) cash on deposit; (b) debts and amounts owing to the Vendor as of the Cut-Off Time other than Receivables assumed by the Purchaser on Closing; (c) Non-Assignable Contracts; and (d) Intellectual Property Rights as they relate primarily to the Vendor only, including the Vendor's names and/or logo and the goodwill associated with the Vendor's names;

"Execution Date" means the date on which all of the Parties have executed this Agreement;

"Financial Statements" means the profit and loss and income statements prepared in connection with the Property with respect to the previous three (3) calendar years provided by the Vendor to the Purchaser prior to the Execution Date;

"Generally Accepted Accounting Principles" means generally accepted accounting principles from time to time approved by the Canadian Institute of Chartered Accountants, or any successor institute, applicable as at the date on which any calculation or determination is required to be made in accordance with generally accepted accounting principles, and where the Canadian Institute of Chartered Accountants includes a recommendation in its Handbook concerning the treatment of any accounting matter, such recommendation shall be regarded as the only generally accepted accounting principle applicable to the circumstances that it covers;

"Immediate Deliveries" means those documents and items to be provided to the Purchaser pursuant to Section 3.5;

"including" and **"includes"** shall be deemed to be followed by the statement **"without limitation"** and neither of such terms shall be construed to limit any word or statement which it follows to the specific or similar items or matters immediately following it;

"Inspection Period" means the period from the Disclosure Date to and including 5:00 p.m. on the Inspection Termination Date;

"Inspection Termination Date" means that day which is the sixtieth (60th) day after the Disclosure Date;

"Intellectual Property Rights" means:

- (a) all intellectual property rights of or pertaining to the Purchased Assets including
 - (i) all trade marks, trade mark registrations, trade mark applications, rights under registered user applications, trade names and other trade mark rights;
 - (ii) all copyrights and industrial designs and registrations thereof and applications therefor;
 - (iii) all licenses, sub-licenses and franchises;
 - (iv) all trade secrets and confidential information;
 - (v) all computer software and rights related thereto; and
 - (vi) all renewals, modifications and extensions of any of items (i) through (v),
- (b) all patterns, plans, designs, research data, other proprietary know-how, processes, drawings, technology, unpatented blue prints, flow sheets, equipment and parts lists, instructions, manuals, records and procedures used by the Vendor, and all licenses, agreements and other contracts and commitments relating to any of the foregoing to which the Vendor is a party;

"Interim Period" means the period between the date of this Agreement and the Closing Time;

"Lands" means, the lands and premises municipally known as 1105 Kingston Road, Pickering, Ontario, and legally described in Schedule "A" together with all easements, rights of way and all other rights appurtenant to or in conjunction with such lands;

"Leases" means, all leases, agreements to lease and licences in respect of the Property, including all offers to lease and monthly tenancies and all other agreements in any way relating to the occupation of the Property all of which are described in the Rent Roll attached as Schedule "E";

"Material Adverse Effect" or "Material Adverse Change" shall mean any material adverse effect on or change in the condition (financial or other), results of operations, assets, liabilities or operations of the Purchased Assets, in each case, taken as a whole which would or could result in a reduction in the value of the Purchased Assets by \$50,000 or more, or on the ability of the Vendor to consummate the transactions contemplated hereby, or any event or condition or state of facts which could reasonably be expected, with the passage of time, to constitute a "Material Adverse Effect" or "Material Adverse Change" provided that a "Material Adverse Effect" or a "Material Adverse Change" shall not include any fact, event, change, development, circumstance or effect resulting from the acts of the Purchaser;

"Major Tenant" means:

either a) TNT Canada Inc., or b) Ontario Power Generation;

"Non-Assignable Contract" means any of the Approved Property Contracts, Permits and other agreements and licences to be assigned to the Purchaser hereunder:

- (a) an assignment or attempted assignment of which would constitute a breach thereof;
- (b) an assignment or attempted assignment of which would constitute a breach thereof without the consent of a third party and such consent has not been obtained;
- (c) in respect of which the remedies for the enforcement thereof available to the Vendor would not pass to the Purchaser; or
- (d) an assignment of which would contravene any Applicable Law;

"Ordinary Course" when used in relation to the conduct by the Vendor of the operation and maintenance of the Property, means any transaction which constitutes an ordinary day-to-day business activity of the Vendor conducted in a commercially reasonable and businesslike manner consistent with the past practices of the Vendor;

"Offering" means a public offering of units of the Retrocom REIT;

"Parties" means the Purchaser and the Vendor collectively, and "Party" means any one of them;

"Payables" means those accounts payable in respect of the Property to be assumed by the Purchaser on Closing, particulars of which are to be provided by the Vendor prior to closing;

"Permits" means all licenses, franchises and permits used in or relating to the ownership, occupancy or operation of the Property or any part thereof;

"Permitted Encumbrances" means the encumbrances set out in Schedule "B";

"Person" means any individual, partnership, limited partnership, joint venture, syndicate, sole proprietorship, company or corporation with or without share capital, unincorporated association, trust, trustee, executor, administrator or other legal personal representative, regulatory body or agency, government or governmental agency authority or entity however designated or constituted;

"Property" means, the Lands and Buildings, but excluding those fixtures, chattels, equipment and improvements belonging to the Tenants of the Property or Persons other than the Vendor;

"Property Contracts" means all service, maintenance and other contracts respecting maintenance or operation of the Property and all leases, conditional sales agreements and agreements in the nature of a lease of personal property relating to the Property under which the Vendor is a party as lessee;

"Proposed Lease" means any bona fide lease, offer to lease or renewal of lease of space in the Property which the Vendor proposes to execute during the Interim Period;

"Proposed Property Contract" means any bona fide agreement relating to the management, servicing, maintenance, repair or cleaning of either the Property or the furnishing of supplies and services thereto which the Vendor proposes to execute during the Interim Period;

"Purchase Price" has the meaning attributed thereto in Section 2.1;

"Purchased Assets" means, collectively, all of the Vendor's right, title and interest in:

- (a) the Property;
- (b) the Equipment;
- (c) the Receivables;
- (d) the Intellectual Property Rights; and
- (e) the Warranty Rights, Leases, Permits and Approved Property Contracts relating to the Property;

"Purchaser" means Retrocom Limited Partnership;

"Receivables" means those accounts receivable due as of the Closing Date in respect of the Property, to be assumed by the Purchaser on Closing, particulars of which are to be provided by the Vendor prior to Closing. Receivables shall include all rent due under Leases;

"Rent Roll" means the rent roll setting forth the particulars of each Lease, attached hereto as Schedule "E", including for each Lease the following: (a) tenant name, (b) unit number, (c) basic rent, (d) percentage rent, if any, (e) square footage of unit, (f) date of commencement and expiry of Lease, (g) details of renewal rights, (h) details of any rent free periods, deposits, tenant loans or other financial concessions, (i) details of any rights/options to purchase the Property or to take additional space, (j) details of any default, and (k) details of any real estate or leasing commissions;

"Retrocom Subsidiary Trust" means the Retrocom Mid-Market Subsidiary Trust which will be created prior to Closing;

"Retrocom REIT" means the Retrocom Mid-Market Real Estate Investment Trust;

"Tenants" means persons who are, become or have the right to become, tenants of the Property or other Persons in occupation under Leases;

"Vendor" means Retrocom Growth Fund Inc. and any successor thereto;

"Warranty Rights" means the full benefit of all warranties, warranty rights, guarantees, indemnities, undertaking and similar covenants (implied, express or otherwise) against manufacturers or sellers which apply to any of the Purchased Assets;

"Work Orders" means any written work orders, notices, directives or letters of non-compliance issued by any governmental or quasi-governmental authority having jurisdiction over the Property other than those caused by the acts or omissions of the Purchaser;

1.2

Schedules

The following schedules form part of this Agreement:

Schedule "A"	Lands
Schedule "B"	Permitted Encumbrances
Schedule "C"	Tenant's Estoppel Certificate
Schedule "D"	Allocation of Purchase Price
Schedule "E"	Rent Roll

1.3 Headings and Table of Contents

The division of this Agreement into articles, sections, subsections and schedules and the insertion of headings are for convenience of reference only and shall not affect the construction or interpretation of this Agreement. The article, section, subsection and schedule headings in this Agreement are not intended to be full or precise descriptions of the text to which they refer and are not to be considered part of this Agreement. All uses of the words "hereto", "herein," "hereof", "hereby" and "hereunder" and similar expressions refer to this Agreement and not to any particular section or portion of it. References to an Article, Section, Subsection or Schedule refer to the applicable article, section, subsection or schedule of this Agreement.

1.4 Gender and Number

In this Agreement, unless the context otherwise requires, words importing the singular include the plural and vice versa and words importing gender include all genders.

1.5 Invalidity of Provisions

Each of the provisions contained in this Agreement is distinct and severable and a declaration of invalidity or unenforceability of any such provision or part thereof by a court of competent jurisdiction shall not affect the validity or enforceability of any other provision hereof.

1.6 Entire Agreement

This Agreement constitutes the entire agreement between the Parties pertaining to the subject matter of this Agreement and supersedes all prior agreements, negotiations, discussions and understandings, written or oral, between the Parties. There are no warranties, representations or agreements between the parties in connection with such subject matter except as specifically set forth or referred to in this Agreement.

1.7 Governing Law

This Agreement shall be governed by, and interpreted and enforced in accordance with, the laws in force in the Province of Ontario (including the laws of Canada applicable thereto) (excluding any conflict of laws rule or principle which might refer such construction to the laws of another jurisdiction) and shall be treated in all respects as an Ontario contract. Each party irrevocably submits to the non-exclusive jurisdiction of the courts of Ontario with respect to any matter arising hereunder or related hereto.

1.8 Generally Accepted Accounting Principles

All accounting and financial terms used herein, unless specifically provided to the contrary, shall be interpreted and applied in accordance with Generally Accepted Accounting Principles.

1.9 Calculation of Time

In this Agreement, a period of days shall be deemed to begin on the first day after the event which began the period and to end at 5:00 p.m. (Toronto time) on the last day of the period. If, however, the last day of the period does not fall on a Business Day, the period shall terminate at 5:00 p.m. (Toronto time) on the next Business Day.

1.10 Amendment

This Agreement may be amended, changed or supplemented only by a written agreement signed by each party hereto.

1.11 Waiver of Rights

Any waiver of, or consent to depart from, the requirements of any provision of this Agreement shall be effective only if it is in writing and signed by the Party giving it, and only in the specific instance and for the specific purpose for which it has been given. No failure on the part of any Party to exercise, and no delay in exercising, any right under this Agreement shall operate as a waiver of such right. No single or partial exercise of any such right shall preclude any other or further exercise of such right or the exercise of any other right.

1.12 Currency

Except where otherwise expressly provided, all dollar amounts in this Agreement are stated and shall be paid in Canadian currency.

1.13 Payment and Tender

Any tender of documents or money hereunder may be made upon the Parties or their respective counsel and any money shall be paid or tendered by wire transfer, official bank draft drawn upon a Canadian chartered bank or by negotiable cheque payable in Canadian funds and certified by a Canadian chartered bank.

1.14 Performance on Holidays

If any action is required to be taken pursuant to this Agreement on or by a specific date which is not a Business Day, then such action shall be valid if taken on or by the next succeeding Business Day.

ARTICLE 2 PURCHASE AND SALE

2.1 Purchase and Sale and Purchase Price

Subject to the provisions hereof, the Vendor shall sell, assign and transfer, and the Purchaser shall purchase and acquire from the Vendor, on the Closing Date the Purchased Assets for the purchase price (the "Purchase Price") of SIXTEEN MILLION EIGHT HUNDRED THOUSAND DOLLARS (\$16,800,000.00), subject to the Adjustments.

2.2 Binding Agreement

The agreements of the Vendor and Purchaser set forth in Section 2.1 create and constitute a binding agreement of purchase and sale of the Purchased Assets on and subject to the provisions of the Agreement.

2.3 Effective Time

The parties intend that the sales, transfers and assignments referred to in Section 2.1 shall occur at the Closing Time.

2.4 Satisfaction of Purchase Price

The Purchase Price will be payable to the Vendor (or as the Vendor may otherwise direct) on the Closing Date in the following manner:

2.4.1 the assumption by the Purchaser of the principal amount of the Assumed Mortgage;

2.4.2 the issuance by the Purchaser to the Vendor of a non-interest bearing promissory note in the principal amount of Three Million Six Hundred Thousand Dollars (\$3,600,000.00); and

2.4.3 the balance of the Purchase Price, subject to the Adjustments, will be satisfied by delivery to the Vendor of a certified cheque, payable to the Vendor drawn on one of the Canadian chartered banks listed in Schedule 1 to the *Bank Act* (Canada) and payable in Toronto.

2.5 Allocation

The Purchase Price shall be allocated among the Purchased Assets as set out in Schedule "D" annexed hereto. The Vendor and the Purchaser shall treat such allocation as binding for all purposes, including the filing of all tax and other returns and the preparation of all financial statements and other documents and records legally required by the respective parties.

2.6 Transaction Taxes

In addition to the Purchase Price, the Purchaser shall be liable for and shall pay when due all applicable land transfer taxes, provincial sales taxes, federal goods and services taxes, if any, and all other taxes, duties and other like charges, including licence transfer fees, if any, (excluding any liabilities of the Vendor under the *Income Tax Act* (Canada) or any similar provincial legislation, including in respect of capital gains or recapture of capital cost allowance realised in connection with the purchase and sale of the Purchased Assets contemplated herein, if any) and registration costs properly payable in connection with the sale, transfer, assignment and delivery of the Purchased Assets by the Vendor to the Purchaser.

Purchased Assets arising from and after the Cut-Off Time, including under each of the following (collectively, the "Assumed Obligations"):

- (a) the Assumed Mortgage;
- (b) the Approved Property Contracts;
- (c) the Approved Leases;
- (d) the Permits and Warranty Rights;
- (e) the Permitted Encumbrances;
- (f) the Payables; and
- (g) the forward commitments by the Vendor for services, supplies or materials to be delivered post-Closing and entered into in the Ordinary Course pursuant to the Property Contracts.

The Vendor shall indemnify and save harmless the Purchaser from and against all claims, demands and liabilities of whatsoever nature and kind relating to or arising under the Purchased Assets before the Cut-Off Time.

2.8 Non-Assignable Contracts

This Agreement shall not constitute an assignment or an attempted assignment of any Non-Assignable Contracts. The Vendor shall assign to the Purchaser all Non-Assignable Contracts when such assignment is permitted and as the Purchaser may from time to time direct. The Vendor shall use its commercially reasonable efforts to obtain all consents required for the assignments contemplated herein. The Vendor shall not, however, be obliged to make any payments to third parties in addition to those required to be made by such Non-Assignable Contracts in order to obtain such consents, unless the Purchaser reimburses the Vendor for such additional payments at the time such payments are made. To the extent permitted by Applicable Law, if any of the Non-Assignable Contracts are not assignable by the terms thereof or where consents to the assignment thereof have not been obtained, such Non-Assignable Contracts shall be held by the Vendor in trust for the Purchaser and the covenants and obligations thereunder shall be performed by the Purchaser and all benefits and obligations existing thereunder shall be for the account of the Purchaser. The Vendor shall take or cause to be taken such action in its name or otherwise as the Purchaser may reasonably require at the Purchaser's cost so as to provide the Purchaser with the benefits thereof and to effect collection of money to become due and payable under the Non-Assignable Contracts and the Vendor shall promptly pay over to the Purchaser all money received by it relating to the Non-Assignable Contracts. The Vendor authorises the Purchaser, to the extent permitted by Applicable Law and the terms of the Non-Assignable Contracts, at the Purchaser's expense, to perform all of the Vendor's obligations under the Non-Assignable Contracts.

2.9 Adjustments

2.9.1 General. The Vendor and the Purchaser shall adjust as of the Cut-Off Time on account of the following items relating to the Purchased Assets:

- (a) all rents, and other recoveries actually paid under the Approved Leases for the month in which the Closing Date occurs, including operating costs, taxes, local improvement charges and utilities and any applicable goods and services tax collectable thereon;
- (b) security deposits and prepaid rent (and interest thereon, if any) paid or received under the Approved Leases;
- (c) taxes and local improvement rates and charges;
- (d) utilities, fuel accounts and utility deposits;
- (e) all other expenses and operating costs in respect of the Property;
- (f) any payments or receipts in respect of obligations or benefits due to or from the merchants' associations and the promotion funds, if any, for the Property;
- (g) any prepaid amounts or any amounts payable under the Approved Property Contracts and any prepaid amounts or amounts payable under Permitted Encumbrances;
- (h) any proceeds of insurance received by the Vendor on account of damage to the Property occurring on or after the date of this Agreement and not applied as of the Closing Date on account of the cost of repair;
- (i) any principal and interest on the Assumed Mortgage and related deposits or security; and
- (j) all other items reasonably capable and, subject to the provisions of this Agreement, properly the subject of adjustment in connection with the ownership, operation and management of the Property of whatsoever nature.

2.9.2 *Adjustment Period.* The Purchaser shall be credited with and shall be entitled to the revenues and incomings received or receivable in respect of the period from and after the Cut-Off Time. The Purchaser shall be responsible for and shall be debited with and shall pay all costs, expenses and outgoings paid or payable in respect of such period. The Vendor shall be credited with and shall be entitled to the revenue and incomings received or receivable in respect to the period up to the Cut-Off Time and the Vendor shall be responsible for and shall be debited with and shall pay all costs, expenses and outgoings paid or payable in respect of such period. All such revenue and expenses incurred during the month of the Closing shall be apportioned between the Vendor and the Purchaser on a per diem basis, based on the number of days in the month.

2.9.3 *Recoveries.*

- (a) prior to the Closing Date, the Vendor agrees to complete its billings to Tenants for all recoverable expenses for the 2003 operating year for the Property;
- (b) as soon as reasonably possible after the Closing Date and in any event no later than six (6) months after the Closing Date, the Vendor and Purchaser shall, to the extent possible, adjust with the Tenants as of the Closing Date on account of all expenses recoverable from Tenants under the Approved Leases including, without limitation, common area charges, operating costs, escalations and property taxes or other similar expenses in respect of the period prior to the Closing Date; and
- (c) in the event that one or more Tenants dispute the Vendor's right to make the interim adjustment referred to in (b) above, the Vendor and the Purchaser shall adjust as of the end of the day on the Closing Date on account of those expenses recoverable from such Tenants, provided that such adjustment shall be made as soon as reasonably possible after the Closing Date.

2.9.4 *Arrears.* Arrears of rents and recoveries from Tenants with respect to the period prior to the calendar month in which the Closing Date occurs shall remain the property of the Vendor. The Purchaser shall use reasonable commercial efforts to assist the Vendor to collect any such arrears of rent or recoveries but, this covenant shall not require the Purchaser to expend any amount of monies, to initiate any legal action nor to take any action which could have the effect of terminating the Approved Leases. Any amounts received by the Parties from or with respect to any such Tenant shall be applied, within 30 days of receipt as follows:

- (a) first, against the arrears accrued prior to the calendar month in which the Closing Date occurs; and
- (b) thereafter, the excess, if any, against other arrears accrued prior to the Cut-Off Time.

2.10 **Readjustment**

It is agreed by and between the Parties that if the final cost or amount of any item which is to be adjusted under this Agreement, including all expenses recoverable from Tenants under Approved Leases, cannot be determined at Closing, then an initial adjustment for such item shall be made, such amount to be estimated by the Vendor, acting reasonably, as at the Closing Date on the basis of the best evidence available at the Closing as to what the final cost or amount of such item will be. The Vendor or Purchaser, as the case may be, shall make a final adjustment as at the Cut-Off Time, forthwith after recovery adjustments are completed with Tenants in respect of the year in which Closing occurs. In the absence of agreement by the parties hereto, the final cost or amount of an item shall be determined by the Vendor's auditors with the cost of such auditors' determination being shared equally between the Parties.

2.11 Tenant Inducements

The Vendor shall be responsible for real estate commissions, tenant allowances and tenant inducements payable with respect to the Leases. The Purchaser shall be responsible for all real estate commissions, tenant allowances and tenant inducements payable with respect to the Proposed Leases it approves.

2.12 Realty Tax Appeals/Reassessments

In the event the Vendor has appealed the municipal realty tax assessment relating to the Property, or any part thereof, with respect to any period prior to the Cut-Off Time, the Parties shall continue such appeal and the Vendor, subject to the entitlement of Tenants, shall be entitled to receive any realty tax rebates, credits, refunds or payments resulting therefrom or from any other statutory or legislative change, or for any other reason, with respect to such period, provided that the Vendor shall pay the costs for such appeals. In the event that any such rebates, credits, refunds or payments or any portion thereof are paid to the Purchaser or otherwise credited to the Purchaser, the Purchaser agrees to forthwith pay or cause such amounts to be paid to the Vendor, including any such amounts credited directly to the tax roll for any portion of the Property subject to entitlements of Tenants. The Purchaser agrees to fully co-operate with the Vendor in collecting any such rebates, credits, refunds or payments relating to the period prior to the Cut-Off Time at the cost and expense of the Vendor. Similarly, if the applicable governmental authority reassesses the Property or any portion thereof for any period prior to the Cut-Off Time the Vendor shall be responsible for any supplementary or omitted tax bills relating to such reassessment. The Purchaser's share of any realty tax rebates, credits, reductions, refunds or omitted realty taxes referable to the calendar year in which Closing occurs shall be readjusted between the Vendor and Purchaser based on their respective periods of ownership of the Property for such calendar year subject to the entitlement of Tenants.

ARTICLE 3 PURCHASER'S EXAMINATIONS

3.1 Access to Information

Until the Closing Time, the Vendor will make reasonable access available during normal business hours on Business Days at the Vendor's or their counsel's offices to the Purchaser and its representatives to inspect and make copies if desired (at the expense of the Purchaser) of all such relevant information in the possession of the Vendor relating to the Purchased Assets as may be reasonably requested by the Purchaser. During the Inspection Period, the Purchaser shall have the right to inspect (a) the Property and conduct tests in the course of its inspections and (b) the Vendor's books and records relating to the operation and management of the Property. Such right shall also extend to the Purchaser's consultants.

3.2 Governmental Inspection

The Purchaser may not initiate inspections of the Property by governmental authorities. The Vendor agrees to provide authorizations to any relevant governmental departments and other authorities, authorising the release of any and all information on file in respect of the Property but specifically denying any right of inspection. If for any reason the

transaction contemplated by this Agreement is not completed, the Purchaser shall return all documents and materials which it has obtained from the Vendor and repair and restore to the condition existing on the date prior to any such inspection or test any damage to the Property caused by the Purchaser's inspections or tests.

3.3 Physical Inspection

The Purchaser shall be entitled to carry out physical inspections and tests of the Property including, without limitation: (a) their structure and the electrical, mechanical, plumbing, heating, air-conditioning, ventilating, garbage disposal, fire alarm, security and other systems servicing the Buildings; (b) the surface and sub-surface (including ground water) of the Lands by means of such soil tests, bore holes, test pits and other excavation as the Purchaser deems prudent; and (c) the environmental quality of the Buildings and the Lands subject to the rights of Tenants and the other occupants of the Property.

3.4 Inspection condition

It is understood and agreed that this Agreement shall be conditional until the Inspection Termination Date on the following: (a) the Purchaser satisfying itself with all aspects of the Purchased Assets, including the results of any tests, reviews or inspections, and (b) the Purchaser satisfying itself with the terms and contents of the Leases, the Assumed Mortgage, the Property Contracts and the Immediate Deliveries. The Purchaser shall have the right should it not be satisfied, in its sole and absolute discretion, within the Inspection Period with any of these conditions to declare this Agreement null and void by a notice in writing delivered to the Vendor or the Vendor's solicitor's within the Inspection Period, whereupon neither party shall have any further liability to the other (save for the Purchaser's obligation to return documents and restore any damage as set out in Section 3.2). These conditions may be waived in whole or in part by the Purchaser. If the Vendor or the Vendor's solicitors have not received within the Inspection Period any notice in writing advising that the conditions contained in this Section 3.4 have been satisfied or waived, then these conditions shall be deemed not to have been satisfied or waived by the Purchaser.

3.5 Immediate Deliveries

To the extent not already done so, the Vendor agrees to provide or make available to the Purchaser as soon as reasonably feasible and in any event within five (5) Business Days after the Execution Date the following:

- (a) true copies of the Property Contracts, Assumed Mortgage and the Leases;
- (b) a copy of: all architectural, structural, electrical and mechanical drawings, plans and specifications; all reports and laboratory and other results relating to tests conducted in respect of the Property; all site plan agreements and other contracts or obligations relating to any portion of the Property or the use and enjoyment thereof; and the Environmental Reports;

- (c) executed authorizations from the Vendor for the release of information to be made in respect of the Property by the local municipality and other relevant government departments and authorities having jurisdiction over such Property;
- (d) a full and complete list of Equipment and a full and complete list of Property Contracts;
- (e) true and correct copies of financial statements for the Property for the previous three fiscal periods of the Property together with a statement of operating income and expenses for the Property from the commencement of the current fiscal period to October 31, 2003; and
- (f) any Permitted Encumbrances in the possession or control of the Vendor.

ARTICLE 4 REPRESENTATIONS AND WARRANTIES

4.1 Vendor's Representations and Warranties

The Vendor represents and warrants to the Purchaser as follows and acknowledges that the Purchaser is relying upon such representations and warranties in entering into and performing its obligations under this Agreement:

4.1.1 *Incorporation and Power.* The Vendor is a corporation validly subsisting under the laws of its jurisdiction of incorporation, is registered as an extra-provincial corporation where required, and has the corporate capacity to own the Purchased Assets and to sell or assign the Purchased Assets and to enter into, execute and deliver this Agreement and the agreements and other instruments contemplated hereby.

4.1.2 *Authority Relative to this Agreement.* All necessary corporate action has been taken by the Vendor to authorize the execution and delivery of this Agreement and all deeds, documents and instruments contemplated by this Agreement and the performance of the Vendor hereunder and thereunder, and this Agreement has been duly executed and delivered by the Vendor and constitutes a legal, valid and binding obligation of the Vendor enforceable against the Vendor in accordance with its terms.

4.1.3 *No Rights to Acquire Purchased Assets.* There are no agreements, options or other rights pursuant to which the Vendor is, or may become, obligated to sell any of the Purchased Assets.

4.1.4 *Title to Purchased Assets.* The Vendor is the absolute beneficial owner of the Purchased Assets with good and marketable title thereto, free of all Encumbrances, except for the Permitted Encumbrances. The Vendor has the exclusive right to possess, use, occupy and dispose of the Purchased Assets, subject only to the rights of the other parties to the Approved Leases and the Permitted Encumbrances.

4.1.5 *No Contravention.* None of the entering into of this Agreement, the sale of the Purchased Assets or the performance by the Vendor of any of its obligations under this

Agreement, will contravene, breach or result in any default under its articles, by-laws, constating documents or other organisational documents or under any mortgage (including the Assumed Mortgage provided any required consent is obtained or notices given), Lease, agreement, other legally binding instrument, licence, permit, statute, regulation, order, judgement, decree or Applicable Law to which it is a party or by which it or the Purchased Assets may be bound. This Agreement and the transactions contemplated hereby will not on Closing relieve any other party to a contract relating to the Purchased Assets, (including the Assumed Mortgage), from or enable such party to determine its obligations thereunder.

4.1.6 *Approvals and Consents.* Any authorization, consent or approval of, or filing with or notice to, any governmental agency, regulatory body, court or other Person required in connection with the execution, delivery or performance of this Agreement by the Vendor or the sale of any of the Purchased Assets by the Vendor to the Purchaser will be obtained by the Vendor prior to Closing, or as and when the parties may agree would be appropriate.

4.1.7 *Building Integrity.* Other than as disclosed by any inspection report provided to the Purchaser, to the best of the Vendor's knowledge and belief, without independent inquiry, the Property (including the foundation, the outer and inner walls, the roofs and the roof membranes) are free from material structural defects and the plumbing, mechanical, electrical and heating systems are free from material defects.

4.1.8 *Litigation.* There are no actions, suits or proceedings pending or, to the knowledge of the Vendor, threatened against or affecting the Vendor at law or in equity, or before any federal, provincial, municipal or other governmental department, commission, board, bureau, agency or agencies, which, if successful, would materially adversely affect the value of the Purchased Assets or the ability of the Vendor to sell any of the Purchased Assets to the Purchaser in accordance with the terms hereof and there exists no order, judgement or decree issued by, any federal, provincial, municipal or other governmental department, commission, board, bureau, agency or agencies which is or could be materially adverse.

4.1.9 *No Default.* The Vendor is not in material default under or in material breach of the Assumed Mortgage or any Permitted Encumbrance and there exists no state of facts which by notice or passage of time, or both, would constitute such a material default or material breach, and the Assumed Mortgage and Permitted Encumbrances are now in good standing and the Vendor is entitled to all benefits, rights and privileges thereunder. The principal balance of the Assumed Mortgage in the aggregate does not exceed \$6,600,000 and the interest rate under the Assumed Mortgage does not exceed 6.59% per annum calculated monthly in arrears. The Vendor is not in material default in meeting any of its obligations under the Assumed Mortgage or Permitted Encumbrances.

4.1.10 *Vendor Resident of Canada.* The Vendor is not a non-resident of Canada for the purpose of Section 116 of the *Income Tax Act* (Canada).

4.1.11 *Property Contracts.* There are no Property Contracts other than those in the Ordinary Course and no default thereunder exists on the part of the Vendor, or, to the best of the Vendor's knowledge and belief, on the part of any of the other parties thereto which would have a Material Adverse Effect on the Purchased Assets. Correct and complete copies of all material

Property Contracts, or where such contracts are oral, correct and complete written summaries of their terms, have been or will be made available to the Purchaser and provided as an Immediate Delivery pursuant to Section 3.5.

4.1.12 *Leases.* Except as disclosed in the Rent Roll, no material default under any of the Approved Leases on the part of the Tenants has occurred and is continuing which individually or in the aggregate would have a Material Adverse Effect. The Vendor is not, as of the Execution Date, in default of its obligations under any of the Approved Leases, which default would have a Material Adverse Effect. The Vendor, subject to the Assumed Mortgage, has the right to receive the rents payable under the Approved Leases free of all Encumbrances or rights of set off in accordance with the terms thereof. The Approved Leases are not subject to the *Tenant Protection Act* (Ontario) or similar legislation in other jurisdictions, or if so subject, then the Approved Leases are in compliance and no lien is claimed against the Vendor under such legislation. The Vendor has not entered into any leases, licences, agreements to lease or other tenancy agreements with respect to the Property, which are currently in effect, save and except the Leases (true copies of which have been or will be provided as an Immediate Delivery pursuant to Section 3.5) and at Closing shall not have entered into any leases, licences, agreements to lease or other tenancy agreements with respect to any Property which are in effect at Closing, save and except the Approved Leases. The leasing files to be made available to the Purchaser during the Inspection Period contain all of the documents which constitute the entire arrangement between the Vendor and each respective Tenant under the Approved Leases. As at the Execution Date (and as of the Closing Date, except in connection with any Proposed Leases approved by the Purchaser), there are no outstanding tenant allowances or tenant inducements payable to any of the Tenants under the Approved Leases and there are no outstanding leasing commissions payable in respect of the Approved Leases or loans made by the Vendor to Tenants. The Rent Roll is a true, correct and complete summary of the information thereon with respect to the Approved Leases as at the Execution Date.

4.1.13 *Insurance.* The Vendor maintains, and is in good standing in respect of, such fire, boiler, public liability, property damage and rental insurance covering the Property as would be maintained by a prudent owner of similar property and such insurance coverage will be continued in full force and effect to and including the Closing Date.

4.1.14 *Zoning and Other Matters.* To the best of the Vendor's knowledge and belief, the Property and the operation and maintenance thereof, as now operated and maintained, comply with all Applicable Laws, except where failure to comply would represent legal non-conforming uses. The Vendor has received no notice and is not aware of (i) any restrictive covenants, municipal by-laws or other laws or regulations which in any way materially restrict or prohibit the use of the Property for the purposes for which it is presently being used, other than the Permitted Encumbrances, or (ii) any proposed changes to the official plan or zoning by-laws which would have a material and adverse effect on or prohibit such uses.

4.1.15 *No Expropriation Proceedings.* There are no expropriation or similar proceedings actual or threatened against the Property or any part thereof of which the Vendor has received notice.

4.1.16 *Environmental Matters.* Other than as specifically identified and disclosed in the Environmental Reports, the Property and its uses comply with, and the Vendor is not, and to the best of the Vendor's knowledge and belief, none of the Tenants is in material violation of, any Applicable Laws relating to the environment. Without limiting the generality of the foregoing, there are no outstanding orders or directions relating to environmental matters requiring any work, repairs, construction or capital expenditures with respect to the Property, and the Vendor is not aware of the basis for, nor has the Vendor received any notice of, such. Other than as specifically identified and disclosed in the Environmental Reports, no hazardous or toxic materials, substances, pollutants, contaminants or wastes and no other substances that, if released to the natural environment could cause, at some immediate or future time, or could have caused, harm or degradation to the natural environment or risk to human health, or which might reasonably be expected to hinder the Property's, or a neighbouring property's, existing use or its anticipated future use as commercial property, exist on, at, in or under the Property or have been or are being released from the Property. Contaminants, pollutants, substances and materials currently prohibited, controlled or regulated by any Authority, and "contaminants", "dangerous substances", "hazardous materials", "hazardous substances", "hazardous wastes", "industrial wastes", "liquid wastes", "pollutants" and "toxic substances", as may be deemed by, defined in, referred to or contemplated by Applicable Law, including any breakdown products related to such materials or substances, are deemed to be hazardous materials. Without limiting the generality of any of the foregoing, to the knowledge of the Vendor, except as specifically identified and disclosed in the Environmental Reports, none of the Buildings is insulated with urea formaldehyde foam and none contains asbestos or asbestos containing materials, polychlorinated biphenyls, or radioactive substances, and no underground or above ground storage tanks are present on, at, in or under the Property except as maintained in accordance with Applicable Law. The Property has not been used for the disposal of waste in a manner that would restrict its use pursuant to Applicable Law, including section 46 of Ontario's *Environmental Protection Act*

4.1.17 *No Listing Agreement.* Except those entered into in the Ordinary Course, there are no listing agreements outstanding pursuant to which any real estate broker has been granted the right to lease out space in the Property.

4.1.18 *Work Orders.* There are no outstanding Work Orders advising of any material defects in the construction or state of repair of the Property or any notice or directive requiring or recommending any material alterations, repairs, improvements or other work to be done with respect to the Property or relating to any material non-compliance with any Applicable Laws relating to the Property.

4.1.19 *Family Residence.* No part of the Property is occupied, nor will it be occupied at Closing, by any shareholder of the Vendor, as a family residence.

4.1.20 *GST Registration.* The Vendor is registered for purposes of Part IX of the *Excise Tax Act* (Canada).

4.1.21 *Historic Designation.* No portion of the Property has been designated as a historic site by any authority and no Buildings shall have been designated by any such authority

as being of sufficient historical interest that a demolition permit would not be available for such Building.

4.1.22 *Access.* There is free and unlimited access to and from the Property to a public roadway.

4.1.23 *Services.* On Closing, the Property will be serviced by all required municipal, private and public utility services including, without limitation, storm and sanitary sewers, water, hydro, cable, internet, telephone and gas, and which services will be installed fully functioning and adequate for the existing use of the Property. The provision of such services shall have paid for by the Vendor and shall not be chargeable against the Property by way of local improvement charges.

4.1.24 *Report.* To the best of the Vendor's knowledge and belief there have been no changes to the Property which would cause any of the Inspection Reports or Environmental Reports to be materially inaccurate or out of date.

4.1.25 *Permits.* All Permits necessary for the operation and ownership of the Purchased Assets are in full force and effect and unamended. The Vendor is in compliance in all respects with all provisions of the Permits and there are no proceedings in progress, or pending or threatened, which may result in revocation, cancellation, suspension or any Material Adverse Change to any of the Permits. No Permit is void or voidable as a result of the completion of the transactions contemplated hereby or by the Closing Documents nor is any consent or approval of any Person required to ensure the continued validity and effectiveness of any Permits in connection with, this Agreement, any Closing Document or the transactions contemplated hereby or thereby.

4.1.26 *No Facts Withheld.* The Vendor has not knowingly withheld any facts relating to the Purchased Assets which would be material to an intending purchaser thereof.

4.1.27 *Construction Liens.* As of the Closing Date, all accounts for labour and material will have been fully paid for in full and no one shall be entitled to claim a lien upon the Property.

4.1.28 *Financial Statements.* The Financial Statements present fairly and accurately in all material respects, the financial position of the Property and the results of its operations and cash flows for the years to which they pertain in accordance with Generally Accepted Accounting Principles.

4.1.29 *No Collective Agreements.* There are no collective agreements or similar employment arrangements with respect to any of the Vendor's employees employed at the Property.

4.1.30 *Area of Buildings.* The Buildings contain a gross leasable area, of approximately 145,169 square feet.

4.1.31 *Equipment.* Other than as disclosed by any inspection reports provided to the Purchaser, to the best of the Vendor's knowledge and belief, all of the Equipment is in good working order, free of defects and suitable for its purpose.

4.2 Purchaser's Representations and Warranties

The Purchaser represents and warrants to the Vendor as follows and acknowledges that the Vendor is relying upon such representations and warranties in entering into and performing its obligations under this Agreement:

4.2.1 *Creation and Power.* The Purchaser is a limited partnership duly established and existing under the laws of Ontario and has the power and capacity to purchase the Purchased Assets and pay the Purchase Price therefor and to enter into, execute and deliver this Agreement and the agreements and other instruments contemplated hereby.

4.2.2 *Authority Relative to this Agreement.* All necessary action has been taken by the Purchaser to authorize the execution and delivery of this Agreement and all deeds, documents and instruments contemplated by this Agreement and the performance of the Purchaser hereunder and thereunder and this Agreement has been duly executed and delivered by the Purchaser and constitutes a legal, valid and binding obligation of the Purchaser enforceable against the Purchaser in accordance with its terms.

4.2.3 *No Contravention.* None of the entering into of this Agreement, the purchase of the Purchased Assets and the payment of the Purchase Price therefor or the performance by the Purchaser, of any of its obligations under this Agreement will contravene, breach or result in any default under the organisational documents of the Purchaser or under any mortgage, Lease, agreement, other legally binding instrument, licence, permit, statute, regulation, order, judgement, decree or Applicable Law to which the Purchaser is a party.

4.2.4 *Approvals and Consents.* No authorization, consent or approval of, or filing with or notice to, any governmental agency, regulatory body, court or other Person is required in connection with the execution, delivery or performance of this Agreement by the Purchaser or the purchase of any of the Purchased Assets by the Purchaser.

4.2.5 *Litigation.* There are no actions, suits or proceedings pending or, to the knowledge of the Purchaser, threatened against or affecting the Purchaser at law or in equity, or before any federal, provincial, municipal or other governmental department, commission, board, bureau, agency or agencies relating to the Purchaser which, if successful, would materially adversely affect the Purchaser or the ability of the Purchaser to purchase any of the Purchased Assets in accordance with the terms hereof and there exists no order, judgement or decree issued by any federal, provincial, municipal or other governmental department, commission, board, bureau, agency or agencies relating to the Purchaser.

4.2.6 *GST Registration.* At the Closing Date the Purchaser will be registered for purposes of Part IX of the *Excise Tax Act* (Canada).

4.3 Survival of Covenants, Representations and Warranties

The covenants, representations and warranties of the Vendor and Purchaser contained in this Agreement and contained in any certificates or Closing Documents delivered pursuant to or in connection with this Agreement and the transactions contemplated hereby will not merge upon Closing or by delivery of any such Certificate or Closing Document and will not

be affected by any independent investigations or inquiries by the Purchaser, but will continue in full force and effect for a period of one year (1) after the Closing Date and any claim for any breach of any representation or warranty must be made within one (1) year of the Closing Date.

4.4 As is, where is Basis

The Purchaser acknowledges that, except for the representations and warranties set forth in Section 4.1 and elsewhere in this Agreement, the Purchased Assets are being sold and purchased on an "as is, where is" basis and there are no other representations or warranties, express or implied, statutory or otherwise, as to title, Encumbrances, description, fitness for purpose, merchantability or otherwise with respect to the Purchased Assets; and without limiting the generality of the foregoing, the Purchaser acknowledges and agrees that except as expressly stated in this Agreement, the Vendor is not making or giving and have not made or given any representation, warranty, covenant or undertaking with respect to the title, soil conditions, state of repair of the Equipment included in the Purchased Assets or the Buildings, compliance of the Property with Applicable Laws, income or expenses relating to the Purchased Assets or any other liabilities with respect to the Purchased Assets.

4.5 Knowledge and Belief

Where any representation or warranty contained in this Agreement is expressly qualified by reference to the "best of the knowledge and belief" of a Person, it shall be deemed to refer to the knowledge of any responsible officer of such Person and the knowledge which such Person would have had if they had conducted a diligent inquiry into the relevant subject matter. Each of the Purchaser and the Vendor confirms that at least one of its responsible officers has made due and diligent inquiry of such Persons as that officer, acting reasonably and prudently, considers necessary as to the matters that are the subject of such representations and warranties.

4.6 Interpretation

Each representation and warranty made by a Party in this Agreement shall be treated as a separate representation and warranty in respect of each statement made and the interpretation of any statement made shall not be restricted by reference to or inference from any other statement made in a representation and warranty of such Party.

4.7 Commission

Each Party represents and warrants to each other Party that no other Party will be liable for any brokerage commission, finder's fee or other like payment in connection with the transactions contemplated hereby because of any action taken by, or agreement or understanding reached by, the first Party.

4.8 Qualification of Representations and Warranties

Any representation or warranty made by a Party as to the enforceability of this Agreement or any Closing Document against such Party is subject to the following qualifications:

- (a) specific performance, injunction and other equitable remedies are discretionary and, in particular, may not be available where damages are considered an adequate remedy; and
- (b) enforcement may be limited by bankruptcy, insolvency, liquidation, reorganisation, reconstruction and other laws generally affecting enforceability of creditors' rights.

ARTICLE 5 CONDITIONS PRECEDENT

5.1 Conditions for the Benefit of the Purchaser

The obligation of the Purchaser to complete the purchase of the Purchased Assets pursuant to this Agreement is subject to the satisfaction of, or compliance with, at or prior to the Closing Time, each of the following conditions (each of which is acknowledged to be for the exclusive benefit of the Purchaser):

5.1.1 *Accuracy of Representations of Vendor, and Compliance with Covenants.* The representations and warranties of the Vendor made in or pursuant to this Agreement shall be true and correct in all material respects at the Closing Time with the same force and effect as if made at and as of the Closing Time, the covenants contained in this Agreement to be performed by the Vendor at or prior to the Closing Time shall have been performed, the Vendor shall not be in material breach of any agreement on its part contained in this Agreement, and the Purchaser shall have received a Certificate of the Vendor confirming the foregoing, in each case in form and substance satisfactory to the Purchaser acting reasonably.

5.1.2 *Closing Documents and Proceedings.* All Closing Documents and all actions and proceedings taken at or prior to the Closing Time in connection with the performance by the Vendor of the Vendor's obligations under this Agreement shall be satisfactory to the Purchaser acting reasonably and the Purchaser shall have received copies of all such Closing Documents and evidence that all such actions and proceedings have been taken as they may reasonably request in form and substance satisfactory to the Purchaser acting reasonably.

5.1.3 *No Adverse Legislation.* No legislation (whether by statute, regulation, order-in-council, notice of ways and means motion, by-law or otherwise) shall have been enacted, introduced or tabled which, in the opinion of the Purchaser, results in a Material Adverse Change or may result in a Material Adverse Change in the Purchased Assets.

5.1.4 *No Action to Restrain.* No action or proceeding shall be pending or threatened by any Person to restrain or prohibit the purchase and sale of the Purchased Assets upon the terms and conditions hereunder or to prevent or restrict the use or enjoyment of any of the Purchased Assets by the Purchaser.

5.1.5 *Opinion of Counsel for Vendor.* The Purchaser shall have received: (i) an opinion of counsel to the Vendor dated on or as of the Closing Date, dealing with corporate matters together with (ii) opinion(s) of counsel to the Purchaser dealing with legal and beneficial title and registration confirming that the Vendor has, and the Purchaser will have upon Closing, good

and marketable title and beneficial interest with respect to the Property all in form and content acceptable to the Purchaser, acting reasonably. In giving its opinion, counsel to the Vendor may rely on certificates of senior officers of the Vendor as to factual matters so long as counsel attaches those certificates to the opinion.

5.1.6 *Title on Closing.* On Closing, title to the Property shall be good and marketable and free and clear of all Encumbrances, except for Permitted Encumbrances.

5.1.7 *Consents.* All consents or approvals from, or notifications to, any Tenant, lessor or other Person required in connection with the transfer, conveyance or assignment to or assumption by the Purchaser of the Purchased Assets and the Assumed Mortgage, shall have been obtained or given on or before the Closing Time.

5.1.8 *Estoppel Certificates.* Estoppel Certificates substantially in the form annexed hereto as Schedule "C" from (i) each of the Major Tenants and (ii) Tenants representing by area not less than 75% of the balance of the leaseable area of the Property (after the exclusions of leaseable areas occupied by Major Tenants) shall have been obtained on or before the Closing Date.

5.1.9 *Offering.* An Offering shall have been successfully completed to the satisfaction of the Purchaser on or before June 30, 2004.

5.1.10 *Transaction Documents.* Each of the Closing Documents and all other agreements, instruments and documents contemplated therein shall have been duly executed and delivered by the Vendor to the Purchaser, or as the Purchaser may direct.

If any of the conditions contained in this Section 5.1, shall not be fulfilled or performed at or prior to the Closing Time to the satisfaction of the Purchaser, the Purchaser may by notice to the Vendor, terminate this Agreement and the obligations of the Vendor and the Purchaser under this Agreement and neither party shall have any further liability to the other. The Purchaser may waive any condition herein in whole or in part, and may proceed to complete the within transaction. No such waiver can be given on a limited, qualified or conditional basis so as to reserve rights against the Vendor after Closing in respect of the subject matter of such waiver.

5.2 **Conditions for Benefit of Vendor**

The obligation of the Vendor to complete the sale of the Purchased Assets hereunder is subject to the satisfaction of, or compliance with, at or before the Closing Time, each of the following conditions (each of which is acknowledged to be for the exclusive benefit of the Vendor):

5.2.1 *Accuracy of Representations of Purchaser and Compliance with Covenants.* The representations and warranties of the Purchaser made in or pursuant to this Agreement shall be true and correct in all material respects at the Closing Time with the same force as if made at and as of the Closing Time; the covenants contained in this Agreement to be performed by the Purchaser at or prior to the Closing Time shall have been performed; the Purchaser shall not be in material breach of any agreement on its part contained in this Agreement; and the Vendor

shall have received a Certificate of the Purchaser confirming the foregoing, in each case in form and substance satisfactory to the Vendor acting reasonably.

5.2.2 *Closing Documents and Proceedings.* All Closing Documents and all actions and proceedings taken at or prior to the Closing Time in connection with the performance by the Purchaser of the Purchaser's obligations under this Agreement shall be satisfactory to the Vendor acting reasonably and the Vendor shall have received copies of all such documents and evidence that all such actions and proceedings have been taken as it may reasonably request in form and substance satisfactory to the Vendor acting reasonably.

5.2.3 *No Action to Restrain.* No action or proceeding shall be pending or threatened by any Person to restrain or prohibit the purchase and sale of the Purchased Assets upon the terms and conditions hereunder.

5.2.4 *Opinion of Counsel for Purchaser.* The Vendor shall have received an opinion of counsel to the Purchaser dated the Closing Date, in form and content acceptable to the Vendor, acting reasonably. In giving such opinion, counsel to the Purchaser may rely on certificates of senior officers of the Purchaser as to factual matters so long as counsel attaches those certificates to the opinion.

5.2.5 *Consents.* All consents or approvals from, or notifications to, any Tenant, lessor or other Person required in connection with the transfer, conveyance or assignment to or assumption by the Purchaser of the Purchased Assets and the Assumed Mortgage, shall have been obtained or given on or before the Closing Time, the Vendor having used its commercially reasonable efforts to obtain them.

5.2.6 *Transaction Documents.* Each of the Closing Documents and all other agreements, instruments and documents contemplated therein shall have been duly executed and delivered by the Purchaser to the Vendor, or as the Vendor may direct.

If any of the conditions contained in this Section 5.2 shall not be fulfilled or performed at or prior to the Closing Time to the satisfaction of the Vendor, the Vendor may by notice to the Purchaser, terminate this Agreement and the obligations of the Vendor and the Purchaser under this Agreement, and neither party shall have any further liability to the other (save for the Purchaser's obligation to restore any damage as set out in Section 3.2). The Vendor may waive any condition herein in whole or in part, and may proceed to complete the within transaction. No such waiver can be given on a limited, qualified or conditional basis so as to reserve rights against the Purchaser after Closing in respect of the subject matter of such waiver.

5.3 Consent of Mortgagee

This Agreement shall be conditional upon the Vendor obtaining the written acknowledgement and consent (the "Mortgagee Consent") from the holder of the Assumed Mortgage: (i) to the Purchaser's purchase of the Purchased Assets; (ii) to the assumption by the Purchaser of the principal monies outstanding under the Assumed Mortgage and the other obligations of the Vendor under the Assumed Mortgage and (iii) that it disavows liability upon and waives any claim against the trustees of the Retrocom REIT, the registered and beneficial holders of units in the Retrocom REIT and annuitants under plans of which registered and

beneficial holders of units in the Retrocom REIT act as trustee or carrier and officers, employees or agents of the Retrocom REIT and the obligations created in the Assumed Mortgage and in any related security or documents are not personally binding upon, nor shall resort be had to, nor shall recourse or satisfaction be sought from, the private property of any trustee of the Retrocom REIT, or any registered or beneficial holder of units in the Retrocom REIT or annuitants under plans of which registered and beneficial holders of units in the Retrocom REIT act as trustee or carrier and any officers, employees or agents of the Retrocom REIT; all in form and content acceptable to the Purchaser acting reasonably. The Vendor shall use reasonable efforts to obtain the Mortgagee Consent. For greater certainty, this Section shall not obligate a Party to make any payment to any Person or to pay any charge or fee (except for payment to the mortgagee under the Assumed Mortgage to cover the Mortgagee's expenses associated with the consents) or to make additional payments, guarantees (except for guarantees of the Purchaser that may be required by the mortgagee under the Assumed Mortgage) or financial contributions or arrangements or to institute legal or arbitration or other proceedings to obtain such consents. In the event this condition is not satisfied by Closing, a Party to this Agreement, by notice to the other Party may terminate this Agreement and the obligations of the Purchaser and Vendor under this Agreement and neither Party shall have any further liability to the other (save for the Purchaser's obligation to restore any damage as set out in Section 3.2). The satisfaction of this condition may only be waived by mutual agreement between the Vendor and the Purchaser. The Vendor and the Purchaser agree to provide to the holder of the Assumed Mortgage such necessary information as is required by them, to consider the assumption as aforesaid, forthwith after execution of this Agreement.

ARTICLE 6 CLOSING

6.1 Location and Time of the Closing

The Closing shall take place at the Closing Time at the offices of the Purchaser's Counsel.

6.2 Delivery by Vendor

On Closing, the Vendor will deliver to the Purchaser on payment of the Purchase Price the following:

6.2.1 executed transfer(s)/deed(s) in favour of the Purchaser or its nominee or trustee for the Property in registrable form (with the *Planning Act* statement completed) and acceptable to the Purchaser acting reasonably;

6.2.2 an executed conveyance or bill of sale for the Equipment in favour of the Purchaser;

6.2.3 a form of certificate or declaration of possession executed by a senior officer or senior officers on behalf of the Vendor with respect to the Property in a form prepared by the Vendor's solicitors and reasonably acceptable to the Purchaser's solicitors;

- 6.2.4 an assignment or assignments to the Purchaser of the Approved Leases, the Approved Property Contracts and the other Purchased Assets, which assignment shall contain: (i) a covenant from the Vendor to indemnify and save harmless the Purchaser from and against all actions, suits, losses, charges, demands, claims and expenses in connection with or arising under the Purchased Assets prior to the Closing Date; and (ii) a covenant from the Purchaser to assume all of the Vendor's covenants and obligations under and in respect of the Approved Leases, the Approved Property Contracts and the other Purchased Assets accruing from and after the Closing Date and to indemnify the Vendor for any breach of such covenant;
- 6.2.5 estoppel certificates, as required pursuant to Section 5.1.8;
- 6.2.6 a Certificate of the Vendor confirming the truth and accuracy of the representations and warranties of the Vendor set forth in Section 4.1;
- 6.2.7 vacant possession of the Property subject to the Approved Leases and the Permitted Encumbrances;
- 6.2.8 original records, documents, documents and computer disks (where practical and where such are available), including, without limitation all Approved Leases, all operating records, Approved Property Contracts, files, books of account, building location surveys, Inspection Reports and Environmental Reports and ancillary documents in the Vendor's possession and control, which the Purchaser may require and which relate directly to the Purchased Assets;
- 6.2.9 an itemised statement of adjustments;
- 6.2.10 a certificate of the Vendor confirming that the Property has never been occupied, and is not occupied at Closing by any shareholder of the Vendor as a family residence and that no part of the Property is used as a family residence;
- 6.2.11 discharges, in registrable form, of existing mortgages, charges and debentures and personal property security interests which are not to be assumed or which are not Permitted Encumbrances, or, alternatively, if discharges are not available on Closing for any institutional mortgage, charge or debenture, the firm undertaking of the Vendor's Solicitors to obtain and register a discharge thereof within a reasonable period after the Closing Date together with a direction authorizing payment of an applicable portion of the closing proceeds to such lender, a mortgage statement for discharge purposes and, if necessary, evidence that the total amount of funds to be delivered to such lenders is less than the balance of funds to be delivered by the Purchaser on closing;
- 6.2.12 a mortgage statement for assumption purposes with respect to the Assumed Mortgage duly executed by the holder of the Assumed Mortgage confirming the amount outstanding thereunder is in all material respects in accordance with Subsection 4.1.9 and that the Assumed Mortgage is in good standing;
- 6.2.13 the Mortgagee Consent;

6.2.14 evidence reasonably satisfactory to the Purchaser, that all *Personal Property Security Act* registrations against the Vendor do not attach to or affect any of the Purchased Assets save by registrations by holders of Permitted Encumbrances and which are ancillary thereto; and

6.2.15 such other deeds, conveyances, assignments, transfers, indemnities and documents as may be necessary to effect the assignment, transfer and sale of the Purchased assets to the Purchaser, as the Purchaser or Purchaser's Counsel may reasonably require to give effect to the intent of this Agreement.

6.3 Delivery of Documents by Purchaser

On Closing, the Purchaser will deliver to the Vendor the following:

6.3.1 the balance of the Purchase Price in accordance with Section 2.1 by delivery of one or more certified cheques made payable to the Vendor or such other Persons (including mortgage lenders) as the Vendor may direct;

6.3.2 a Certificate of the Purchaser confirming the truth and accuracy as at the time of Closing of the representations and warranties of the Purchaser set forth in Section 4.2 as at the Closing Time;

6.3.3 an assignment or assignments to the Purchaser of the Approved Leases, the Approved Property Contracts and other Purchased Assets, which assignment shall contain: (i) a covenant from the Vendor to indemnify and save harmless the Purchaser from and against all actions, suites, losses, charge, claims, demands and expenses in connection with or arising under the Purchased Assets prior to the Closing Date; and (ii) a covenant from the Purchaser to assume all of the Vendor's covenants and obligations under and in respect of the Approved Leases, the Approved Property Contracts and the other Purchased Assets accruing from and after the Closing Date and to indemnify the Vendor for any breach of such covenant;

6.3.4 a general assumption of the Assumed Obligations which shall contain a covenant from the Purchaser to assume all of the Vendor's covenants and obligations under and in respect of the Assumed Obligations from and after the Closing Date and to indemnify and save harmless the Vendor in respect of all matters arising thereunder or in respect thereof from and after the Closing Date;

6.3.5 if such is required either by the terms of any Permitted Encumbrance, Assumed Mortgage or Property Contract, an assumption agreement in a form reasonably satisfactory to the Vendor, pursuant to which the Purchaser assumes the obligations of the Vendor contained in such document and indemnifies the Vendor in respect of matters arising thereunder from and after the Closing Date, and such other assumption and amending agreements as may be required from an assignee of the Vendor's interest in the Assumed Mortgage, Permitted Encumbrances or Approved Property Contracts; and

6.3.6 such other instruments and documents as the Vendor or Vendor's Counsel may reasonably require to give effect to the intent of this Agreement.

ARTICLE 7 ADDITIONAL AGREEMENTS OF THE PARTIES

7.1 Purchaser to Maintain Purchased Assets to Closing Date

The Vendor shall continue to manage and operate, or cause the management and operation of, the Property in the Ordinary Course and in the manner in which it has managed and operated, or caused the management and operation of, same in the past until the Closing.

7.2 Contracts

During the Interim Period, the Vendor agrees not to modify, amend, alter, cancel, or accept a surrender or forfeiture of any of the Major Tenant Leases or any material Property Contracts without the prior written consent of the Purchaser and the Vendor agrees not to enter into any Proposed Lease without the prior written approval of the Purchaser, such consent or approval not to be unreasonably withheld or delayed. The execution by the Vendor of a Proposed Lease approved by the Purchaser shall render such lease an Approved Lease. The Vendor shall not enter into any Proposed Property Contract without the prior written approval of the Purchaser, such approval not to be unreasonably withheld or delayed. The execution by the Vendor of a Proposed Property Contract approved by the Purchaser shall render such contract an Approved Property Contract. The Purchaser shall supply to the Vendor within five (5) Business Days of the date of the Purchaser's receipt from Vendor of a request for consent or approval of any modification, amendment, alteration, cancellation, surrender or forfeiture of any of the Leases, Property Contracts or of any Proposed Lease or Proposed Property Contract, its written approval, consent or rejection (with reasons) for any such proposal, failing which the Purchaser shall be deemed to have given its written consent or approval to the proposal. Notwithstanding the foregoing, the Vendor may enter into a Proposed Property Contract without the prior consent of the Purchaser as long as such Proposed Property Contract (i) may be terminated on not more than thirty (30) days notice by the Vendor or the Purchaser without payment of any penalty or bonus and (ii) is on commercially reasonable terms, and any such Proposed Property Contract shall be deemed to be an Approved Property Contract.

7.3 Action re Representations, Warranties and Conditions

Until the Closing Time, the Vendor shall use commercially reasonable efforts to do or refrain from doing all acts and things necessary or desirable in order to ensure that the representations and warranties in Section 4.1 remain true and correct at the Closing Time as if such representations and warranties were made at and as of such date.

7.4 Insurance

Until the Closing Time, the Vendor shall maintain, or cause to be maintained, in full force all policies and contracts of insurance which are now in effect (or renewals thereof) and under which it or any of the Purchased Assets are insured.

7.5 Risk

Until Closing, the Purchased Assets will be and remain at the risk of the Vendor and the Vendor will hold all policies of insurance and any proceeds thereof subject to the interest of the Purchaser. If, prior to the Closing Date, any part of the Purchased Assets is destroyed or damaged by fire or other casualty, the Vendor will deliver prompt written notice thereof to the Purchaser. In the event of damage to the Purchased Assets where the cost of repair is, in the opinion of an independent architect acting reasonably (appointed by the Vendor and acceptable to the Purchaser acting reasonably) (the "Independent Architect"), \$100,000.00 or more, the Purchaser may elect by notice given to the Vendor by the earlier of (i) ten (10) Business Days after notice from the Vendor of the cost of repair and (ii) the day before the Closing Date, to (a) receive the proceeds of insurance plus any applicable deductible (or the right thereto) and complete this Agreement, or (b) terminate this Agreement. If at the expiry of the time period set out above the Purchaser has not made an election as aforesaid the Purchaser shall be conclusively deemed to have elected to receive the Vendor's interest in the proceeds of insurance and deductible and complete this Agreement. In the event the cost of repair is, in the opinion of the Independent Architect, acting reasonably, less than \$100,000.00, the Purchaser may elect by notice given to the Vendor either to (i) take the insurance proceeds plus any applicable deductible (or the right thereto), or (ii) deduct the said cost of repair from the amount payable on the Closing Date and complete this Agreement in which event the Vendor shall be entitled to receive all such insurance proceeds. If at the expiry of the time period set out above the Purchaser has not made an election as aforesaid the Purchaser shall be conclusively deemed to have elected to take the insurance proceeds and deductible (or the right thereto) and complete this Agreement. The Vendor covenants and agrees to promptly advise the Purchaser of any damage to or any destruction of the Purchased Assets. If the Purchaser elects to complete this Agreement in accordance with the provisions hereof all proceeds of insurance will be assigned to the Purchaser on Closing and all proceeds of insurance paid to the Vendor and not applied by the Vendor on account of the repair or reconstruction of the Purchased Assets will be credited to the Purchaser on Closing.

7.6 Bulk Sales

The Purchaser waives compliance with the *Bulk Sales Act* (Ontario). The Vendor agrees to indemnify and save the Purchaser harmless from all claims, suits and causes of action which any creditor may institute with respect to the Purchased Assets pursuant to or arising out of non-compliance with such legislation.

7.7 Planning Act

This Agreement shall be conditional upon and will be effective to create an interest in the Property only if the applicable subdivision control provisions of the *Planning Act* (Ontario) are complied with by the Vendor on or before Closing. The Vendor hereby covenants to proceed diligently at its expense to obtain any necessary consent on or before Closing.

7.8 Consents and Waivers

The Vendor shall at its own expense use reasonable commercial efforts to obtain by the Closing Time all material consents or waivers of third parties required to consummate the transactions contemplated by this Agreement. For greater certainty, this Section shall not obligate the Vendor to make any payment to any Person or to pay any other charge or fee (except a payment contracted for with the third party or a payment to a Tenant or mortgagee under the Assumed Mortgage to cover the Tenant's or mortgagee's expenses associated with the consents) or to make additional payments, guarantees or financial contributions or arrangements or to institute legal or arbitration or other proceedings to obtain such consents or waivers.

7.9 Cooperation

The Purchaser shall co-operate with the Vendor during the Interim Period in order to permit the Closing to be consummated. In particular, the Purchaser shall provide to any Person whose consent is required to the transactions contemplated hereby, all such information relating to the Purchaser including financial information, information relating to its business experience and the business experience of the individuals who ultimately control and operate the Purchaser and with respect to its ability to perform the Vendor's obligations relating to the Purchased Assets, as may be required by such Person and, for greater certainty, the Purchaser will provide any guarantee required by the mortgagee under the Assumed Mortgage.

7.10 Actions to Satisfy Closing Conditions

Each Party shall take all such action as is within its power to control, and subject to any other provision in this Agreement, shall use reasonable commercial efforts to cause other actions to be taken which are not within its power to control, so as to ensure compliance with all conditions which are for the benefit of any party. The parties will cooperate in exchanging such information and providing such assistance as may be reasonably required in connection with the foregoing.

7.11 Material Adverse Changes

The Vendor shall not suffer or permit any Material Adverse Change in the Purchased Assets or sell, transfer or dispose of any of the Purchased Assets.

7.12 Liens

The Vendor shall not suffer or permit any Encumbrance to attach to or affect any of the Purchased Assets other than the Permitted Encumbrances.

7.13 Estoppel Certificates

Prior to the Vendor delivering estoppel certificates to the Tenants for execution, the Vendor shall deliver completed copies of all estoppel certificates to the Purchaser for the Purchaser's approval as to the information contained therein. The Purchaser shall have three (3) Business Days to approve or advise the Vendor of any required changes to the estoppel

certificates, and the Purchaser shall have two (2) additional Business Day to approve any redrafted estoppel certificates prior to their delivery to the Tenants.

7.14 Limitation of Liability

The Vendor hereby disavows liability upon and waives any claim against the trustees of the Retrocom REIT, the registered and beneficial holders of units in the Retrocom REIT, annuitants under plans of which registered and beneficial holders of units in the Retrocom REIT act as trustee or carrier and the officers, employees or agents of the Retrocom REIT and the obligations created hereunder are not personally binding upon, nor shall resort be had to, nor shall recourse or satisfaction be sought from, the private property of any trustee of the Retrocom REIT, any registered or beneficial holder of units in the Retrocom REIT, annuitants under plans of which registered and beneficial holders of units in the Retrocom REIT act as trustee or carrier and the officers, employees or agents of the Retrocom REIT.

7.15 Closing Date

The transactions contemplated by this Agreement shall be completed on or before March 31, 2004 on a Business Day determined by the Purchaser (the "Closing Date") which shall be the date of the Offering. The Purchaser shall provide the Vendor with commercially reasonable information such that the Vendor has reasonable notice of the anticipated date of the Offering and of the Closing Date. For greater certainty, if the Offering is not successfully completed, there shall be no obligation on the Purchaser to complete this Agreement.

7.16 Work Orders

The Purchaser shall be allowed until the Closing Date, at its own expense, to investigate whether there are outstanding Work Orders relating to the Property. If within the time period prescribed, the Purchaser furnishes to the Vendor notice in writing indicating that there are such outstanding Work Orders, the following shall occur:

- (a) the Purchaser and the Vendor shall immediately do, or cause to be done, the necessary work to satisfy the Work Order as soon as possible, but, in any event, prior to Closing;
- (b) if such Work Order(s) cannot reasonably be satisfied by Closing, the Vendor and the Purchaser shall, acting reasonably, engage a professionally qualified independent engineer (the "Engineer") to provide an estimate as to the cost to rectify any such Work Orders and the following shall apply: (i) if the report (the "Report") of the Engineer confirms that the cost of satisfying the Work Order(s) in the aggregate (the "Satisfaction Cost") does not exceed \$100,000, then such work shall be contracted for and the Satisfaction Cost thereof, to the extent not paid by the Cut-Off Time shall be adjusted on Closing; (ii) if the Satisfaction Cost exceeds \$100,000.00 in the aggregate the Vendor shall have no obligation to satisfy or rectify such Work Order(s) and the Purchaser shall, by notice to the Vendor within four (4) Business Days after the receipt of the Report either: (i) elect to terminate this Agreement and this Agreement shall, upon delivery of such notice and notwithstanding any intermediate acts or negotiations, be terminated

and the Deposit (together with any interest accrued thereon) shall be returned to the Purchaser and no Party shall be liable for any costs or damages of the other or (ii) elect to reduce the Purchase Price by an amount equal to the Satisfaction Cost in which event the Purchaser shall deduct such amount from the amount payable on Closing, retain the same for its own benefit, close the transaction and assume full responsibility for satisfaction of the Work Order(s). Save as to any valid objection so made within such time, the Purchaser shall be conclusively deemed to have been satisfied with respect to any Work Order(s).

ARTICLE 8 INDEMNIFICATION

8.1 Definitions

As used in this Article 8:

"Claim" means any act, omission or state of facts and any demand, action, suit, proceeding, claim, assessment, judgment or settlement or compromise relating thereto which may give rise to a right to indemnification under Sections 8.2 or 8.3;

"Indemnifier" means any Person obligated to provide indemnification under this Agreement;

"Indemnified Party" means any Person entitled to indemnification under this Agreement;

"Indemnity Payment" means any amount of Loss required to be paid pursuant to Sections 8.2 or 8.3;

"Loss" means any and all loss, liability, damage, cost, expense, charge, fine, penalty or assessment, resulting from or arising out of any Claim, including the costs and expenses of any action, suit, proceeding, demand, assessment, judgment, settlement or compromise relating thereto and all interest, punitive damages, fines and penalties and reasonable legal fees and expenses incurred in connection therewith, including loss of profits and consequential damages;

"Representative" means each director, officer, employee, agent, solicitor, accountant, professional advisor and other representative of an Indemnified Party; and

"Third Party Claim" means any Claim asserted against an Indemnified Party by any Person who is not a Party or an Affiliate of such Party.

8.2 Indemnification by Vendor

Subject to the limits set forth in Section 8.8, the Vendor shall indemnify, defend and save harmless the Purchaser and each of its Representatives from and against any and all Loss suffered or incurred by them, as a direct or indirect result of or arising in connection with:

- (a) subject to Section 4.3, any misrepresentation or breach of any warranty made or given by the Vendor in this Agreement, in any Closing Document or in any other document delivered pursuant to this Agreement or any Closing Document; or
- (b) any failure by the Vendor to observe or perform any covenant or obligation contained in this Agreement, any Closing Document or in any document delivered pursuant to this Agreement or any Closing Document.

8.3 Indemnification by the Purchaser

Subject to the limits set forth in Section 8.8, the Purchaser shall indemnify, defend and save harmless the Vendor and each of its Representatives from and against any and all Loss suffered or incurred by them, as a result of:

- (a) subject to Section 4.3, any misrepresentation or breach of any warranty made or given by the Purchaser in this Agreement, in any Closing Document or in any other document delivered pursuant to this Agreement or any Closing Document; or
- (b) any failure by the Purchaser to observe or perform any covenant or obligation contained in this Agreement, in any Closing Document or in any document delivered pursuant to this Agreement or any Closing Document.

8.4 Agency for Representatives

Each Indemnified Party agrees that it accepts each indemnity in favour of any of its Representatives as agent and trustee of that Representative. Each party agrees that an Indemnified Party may enforce an indemnity in favour of any of that party's Representatives on behalf of that Representative.

8.5 Notice of Third Party Claims

If an Indemnified Party receives notice of the commencement or assertion of any Third Party Claim, the Indemnified Party shall give the Indemnifier reasonably prompt notice thereof, but in any event no later than 10 Business Days after receipt of such notice of such Third Party Claim. Such notice to the Indemnifier shall describe the Third Party Claim in reasonable detail and shall indicate, if reasonably practicable, the estimated amount of the Loss that has been or may be sustained by the Indemnified Party.

8.6 Defence of Third Party Claims

The Indemnifier may participate in or assume the defence of any Third Party Claim by giving notice to that effect to the Indemnified Party not later than 10 business days after receiving notice of that Third Party Claim (the "Notice Period"). The Indemnifier's right to do so shall be subject to the rights of any insurer or other party who has potential liability in respect of that Third Party Claim. The Indemnifier agrees to pay all of its own expenses of participating in or assuming such defence. The Indemnified Party shall co-operate in good faith in the defence of each Third Party Claim, even if the defence has been assumed by the Indemnifier and may participate in such defence assisted by counsel of its own choice at its own expense. The Indemnifier shall not enter into any compromise or settlement of any Third Party Claim without obtaining the prior written consent of the Indemnified Party. If the Indemnified Party has not received notice within the Notice Period that the Indemnifier has elected to assume the defence of such Third Party Claim, the Indemnified Party may, at its option, elect to settle or compromise the Third Party Claim or assume such defence, assisted by counsel of its own choosing and the Indemnifier shall be liable for all reasonable costs and expenses paid or incurred in connection therewith and any Loss suffered or incurred by the Indemnified Party with respect to such Third Party Claim.

8.7 Failure to Give Timely Notice

A failure to give timely notice as provided in this Article 8 shall not affect the rights or obligations of any Party except and only to the extent that, as a result of such failure, any Person which was entitled to receive such notice was deprived of its right to recover any payment under its applicable insurance coverage or was otherwise directly and materially damaged as a result of such failure.

8.8 Limitation

- (a) No claims for indemnification may be made by the Purchaser against the Vendor under Section 8.2(a) in respect of any Loss arising in connection with any misrepresentation or breach of warranty made or given by the Vendor in this Agreement, any Closing Document or in any document delivered pursuant to this Agreement or any Closing Document unless and until the Loss suffered or incurred by the Purchaser and by all of its Representatives, collectively, in respect of all such misrepresentations or breaches of warranty, exceeds Fifty Thousand Dollars (\$50,000.00) in the aggregate, in which event the amount of all such Loss including such Fifty Thousand Dollar (\$50,000.00) amount may be recovered by the Purchaser and such Representatives.
- (b) No claims for indemnification may be made by the Vendor against the Purchaser under Section 8.3(a) in respect of any Loss arising in connection with any misrepresentation or breach of warranty made or given by the Purchaser in this Agreement, any Closing Agreement or in any document delivered pursuant to this Agreement or any Closing Document unless and until the Loss suffered or incurred by the Vendor and its respective Representatives collectively, in respect of all such misrepresentations or breaches of warranty, exceed Fifty Thousand

Dollars (\$50,000.00) in the aggregate, in which event the amount of all such Loss including such Fifty Thousand Dollars (\$50,000.00) amount may be recovered by the Vendor and such Representatives.

8.9 Rights in Addition

The rights of indemnity set forth in this Article 8 are in addition and supplemental to any other rights, actions, claims or causes of action which may arise in respect of this Agreement, any Closing Document and the transactions contemplated hereby.

**ARTICLE 9
GENERAL MATTERS**

9.1 Expenses

Each party will be responsible for its own legal fees and other charges incurred in connection with the purchase and sale of the Purchased Assets, all negotiations between the parties and the consummation of the transactions contemplated hereby.

9.2 Return of Documentation

Notwithstanding any other provision of this Agreement, in the event that this Agreement is terminated for any reason other than the default of the Vendor, the Purchaser agrees to deliver to the Vendor forthwith after termination copies of any soils studies, physical inspection reports, feasibility studies or similar studies, tests or reports performed by or on behalf of the Purchaser in respect of the Property and, for this purpose, the Purchaser agrees that it will have any of its consultants conducting or carrying out such tests, studies and reports to specifically acknowledge that the Vendor may rely on such tests, studies and reports in the same manner and to the same extent as the Purchaser.

9.3 Notices

Any notice, demand or other communication (in this Section, a "notice") required or permitted to be given or made hereunder shall be in writing and shall be sufficiently given or made if:

- (a) delivered in person during normal business hours on a Business Day and left with a receptionist or other responsible employee of the relevant party at the applicable address set forth below; or
- (b) sent by any electronic means of sending messages, including telex or facsimile transmission, which produces a paper record ("Transmission") during normal business hours on a Business Day;

in the case of a notice to the Vendors, addressed to them at:

89 The Queensway West
Suite 400
Mississauga, Ontario
L5B 2V2

Attention: R. Michael Steplock
Facsimile No.: (905) 848-2869

and in the case of a notice to the Purchaser, addressed to them at:

89 The Queensway West
Suite 400
Mississauga, Ontario
L5B 2V2

Attention: R. Michael Steplock
Facsimile No.: (905) 848-2869

received: Each notice sent in accordance with this Section shall be deemed to have been

- (a) on the day it was delivered; or
- (b) on the same day that it was sent by Transmission, or on the first Business Day thereafter if the day on which it was sent by Transmission was not a Business Day.

Any Party may change its address for notice by giving notice to the other Parties.

9.4 Time of Essence

Time is of the essence of this Agreement.

9.5 Further Assurances

Each of the parties hereto shall promptly do, make, execute or deliver, or cause to be done, made, executed or delivered, all such further acts, documents and things as the other party hereto may reasonably require from time to time for the purpose of giving effect to this Agreement and shall use reasonable commercial efforts and take all such steps as may be reasonably within its power to implement to their full extent the provisions of this Agreement.

9.6 Press Releases

If, after the Execution Date, the Vendor or the Purchaser or an Affiliate thereof wishes for any reason to make a public statement or issue a press release concerning the transaction hereunder, the party making such disclosure shall consult with the other parties prior to making such statement or release and each party shall use all reasonable efforts, acting in good faith, to agree upon the text of such statement or release. If a party is subject to a legal

requirement to make disclosure, that party shall have the final determination as to the timing and content of such disclosure. Information respecting this Agreement and the transaction hereunder shall otherwise be kept in strict confidence by the Vendor and their respective authorized representatives.

9.7 Assignment

Neither this Agreement nor any rights or obligations hereunder shall be assignable by any Party without the prior written consent of the other Party. The Purchaser may, however, without the consent of the Vendor, assign this Agreement and its rights hereunder to the Retrocom REIT, the Retrocom Subsidiary Trust or any affiliate thereof on condition that the Purchaser remains liable to observe and perform all of its covenants and obligations hereunder. Subject thereto, this Agreement shall enure to the benefit of and be binding upon the Parties and their respective heirs, executors, administrators, legal representatives, successors (including any successor by reason of amalgamation or statutory arrangement of any Party) and permitted assigns.

9.8 Counterparts

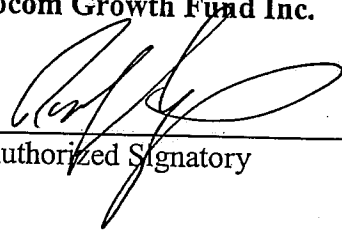
This Agreement may be executed in any number of counterparts. Each executed counterpart shall be deemed to be an original. All executed counterparts taken together shall constitute one agreement.

9.9 Facsimile Execution

An executed copy of this Agreement may be delivered by any Party by facsimile. In such event, such Party shall forthwith deliver to the other Party the copy of this Agreement executed by such Party.

DATED at Toronto as of the date the first written above.

Retrocom Growth Fund Inc.

By: 

Authorized Signatory

By: _____

Authorized Signatory

Retrocom Limited Partnership
by its general partner, 1579898 Ontario Inc.

1579898 Ontario Inc.

By: _____

Authorized Signatory

By: _____

Authorized Signatory

SCHEDULE "A"
LANDS

PIN No. 26317-0075 (LT)

1105 Kingston Road, Pickering, Ontario

Part of Lots 23 & 24, Concession 1 as in D468616; S/T D288571, D347349; T/W CO179578; S/T D25874 assigned by D106496; S/T CO144390, CO253838, CO253840, D312806, D338631, D339493, City of Pickering, Regional Municipality of Durham

SCHEDULE "B-1"
GENERAL PERMITTED ENCUMBRANCES

"Permitted Encumbrances" means:

1. inchoate or statutory liens for taxes not at the time overdue but only if the amount thereof at the Closing Date is adjusted in favour of the Purchaser and inchoate or statutory liens for overdue taxes the validity of which the Vendor is contesting in good faith but only for so long as such contestation effectively postpones enforcement of any such liens or taxes, and only if the amount of such overdue taxes at the Closing Date is adjusted in favour of the Purchaser on the Statement of Adjustments;
2. statutory liens incurred or deposits made in the ordinary course of the Vendor's business in connection with worker's compensation, unemployment insurance and similar legislation, but only to the extent that each such statutory lien or deposit relates to amounts not yet due and only if the amount thereof at the Closing Date is adjusted in favour of the Purchaser on the Statement of Adjustments;
3. liens and privileges arising out of any judgment with respect to which the Vendor intends to prosecute an appeal or proceedings for review but only for so long as there is a stay of execution pending the determination of such appeal or proceedings for review, and only if the amount thereof at the Closing Date is adjusted in favour of the Purchaser on the Statement of Adjustments;
4. security given by the Vendor to a public utility or any Governmental Authority when required in the ordinary course of business of the Vendor but only to the extent that the obligation secured at the Closing Date is adjusted in favour of the Purchaser on the Statement of Adjustments;
5. undetermined or inchoate construction or repair or storage liens arising in the Ordinary Course, a claim for which has not been filed or registered pursuant to law or which notice in writing has not been given to the Vendor, but only if the amount thereof at the Closing Date is adjusted in favour of the Purchaser on the Statement of Adjustments;
6. any reservations or exceptions contained in the original grants from the Crown;
7. easements and any registered restrictions or covenants that run with the Land provided they have been complied with, provided that they do not in the aggregate materially detract from the value of the Property and they will not materially and adversely affect the ability of the Purchaser to carry on operations as they have been carried on in the past;
8. rights of way for, or reservations or rights of others relating to, sewers, water lines, gas lines, pipelines, electric lines, telegraph and telephone lines and other similar products or services, provided that they do not in the aggregate materially detract from the value of the Property and they will not materially and adversely affect the ability of the Purchaser to carry on operations as they have been carried on in the past;

9. zoning by-laws, ordinances or other restrictions as to the use of real property, and agreements with other Persons registered against title to the Lands, provided that there is no contravention thereof and they do not in the aggregate materially detract from the value of the Property and they will not materially and adversely affect the ability of the Purchaser to carry on operations as they have been carried on in the past;
10. Approved Leases;
11. Assumed Mortgage;
12. Approved Property Contracts;
13. Any personal property security registrations ancillary to a Permitted Encumbrance listed in Schedule B-2; and
14. All documents contemplated as necessary and appropriate to complete the transaction herein.

SCHEDULE "B-2"
PROPERTY-SPECIFIC PERMITTED ENCUMBRANCES

1. Transfer of Easement No. CO144390 (1966/08/11) to The Bell Telephone Co. of Canada;
2. Transfer of Easement No. CO253838 (1974/04/09) to Bell Canada;
3. Quit Claim Non Tr No. CO253839 (1974/04/09);
4. Transfer of Easement No. CO253840 (1974/04/09) to Bell Canada;
5. Transfer of Easement No. D25874 (1976/04/21) to The Regional Municipality of Durham;
6. Assignment General (Multi) No. D106496 (1980/04/22);
7. Notice of Claim No. D116720 (1980/12/05);
8. Agreement No. D121221 (1981/04/14) to The Corp of the Town of Pickering;
9. Transfer of Easement No. D312806 (1989/05/25) to The Consumer's Gas Co. Ltd.;
10. Transfer of Easement No. D338631 (1990/03/29) to Town of Pickering;
11. Transfer of Easement No. D339493 (1990/04/09) to Bell Canada;
12. Charge No. D518402 (1998/07/10 in favour of Paularene Management Inc.;
13. General Assignment of Rents No. D518403 (1998/07/10) re Charge No. D518402;
14. Notice No. DR188951 (2003/07/14) between Retrocom Growth Fund Inc. and Paularene Management Inc.

SCHEDULE "C"
TENANT'S ESTOPPEL CERTIFICATE

To: Retrocom Limited Partnership

AND TO: Retrocom Growth Fund Inc.

The undersigned tenant of 1105 Kingston Road, Pickering, Ontario (the "Industrial Park") hereby acknowledges as follows:

1. That it is in possession of [REDACTED] square feet in the Industrial Park, as tenant under a certain lease (the "Lease") entered into with [REDACTED] and dated the [REDACTED] day of [REDACTED], as amended by [REDACTED];
2. That the date of commencement of the term of the lease was [REDACTED], and the expiry date of the term of the lease is [REDACTED], subject to the renewal rights listed below:
[REDACTED]
3. That the yearly basic rental currently being paid for the said premises is \$ [REDACTED] plus percentage rent equal to the amount, if any, by which [REDACTED]% of gross revenue for a specified period exceeds [REDACTED].

The yearly basic rental payment during the renewal term is as follows:
[REDACTED]
4. That the leased premises have been completed in accordance with any agreements between the landlord and the tenant, and the tenant has accepted such premises and is in possession thereof with rental payable as in paragraph 3 above;
5. That the lease is in full force and effect and there are no modifications or changes in the lease other than those listed below:

None
6. That the tenant presently has no claim, defence, set off or counterclaim against the landlord under the lease or otherwise;
7. That there are no unpaid tenant inducements, tenant allowances or similar payments due to the undersigned and there are no future free rent periods under the Lease.
8. That there has been no prepaid rent or security deposit other than as listed below:

None

9. The undersigned certifies and represents that the above statements, including any exceptions which have been added thereto, are full and complete and may be relied and acted upon.

DATED this day of _____, 2004.

[Insert Tenants name]

By: _____

By: _____

SCHEDULE "D"
ALLOCATION OF PURCHASE PRICE

A. PROPERTY

1. Lands
2. Buildings
3. Chattels

Total Property

