

affiliation provided (i) each such transaction has been approved or ratified, after full disclosure of any affiliation, by a majority of all the Trustees, or a majority of all the members of an Investment Committee (in the case of action taken by an Investment Committee), who are not Affiliates of any Person (other than the Trust) who is a party to the transaction, (ii) the Trustees approving the transaction have determined that such transaction is on terms which are fair and reasonable to the Trust and the Shareholders and in no event less favorable to the Trust than terms available for a comparable transaction with others who are not so affiliated and (iii) in the case of a sale of any interest in Mortgages, interest in Real Property, or interest in Persons engaged in the real estate business, to the Trust by the Persons referred to in (c) and (d) above the seller retains, or contemporaneously sells to a purchaser not an Affiliate of the Adviser or the Trust, in either case on terms not more favorable than the terms of the transaction between the seller and the Trust are to the Trust, a participation of 5% or more in such interest; provided, however, that the foregoing clause (iii) shall not apply to the acquisition or disposition of interests at the formation of the Trust or within 120 days thereafter or which are described in the Trust's first Registration Statement filed under the Securities Act of 1933 at the effective date thereof or to transactions which constitute a take-out of a Construction Loan by the commitment to make or the making of a permanent loan or other longer term investment. For purposes of this Section 2.17 the term "independent contractor" means an "independent contractor" as defined in Section 856(d)(3) of the Internal Revenue Code which furnishes or renders services to tenants of or manages or operates Real Property owned by the Trust. The simultaneous acquisition by the Trust and the Adviser or any Affiliate of the Adviser of participations in a loan or other investment shall not be deemed to constitute a purchase or a sale of property by one of them to the other, provided that the terms, other than the size of the participation, are not less favorable to the Trust than to such other Person.

Subject only to the foregoing express prohibitions relating to acquisition and disposition of assets, the Trustees may enter into any type of transaction or contract (including, without limitation, contracts for any type of services to be rendered to or on behalf of the Trust, for the underwriting of Securities of the Trust or for any services in the so-called private placement of Securities of the Trust) with any Person referred to in clauses (a) through (d) of the preceding paragraph and may authorize such amount and type of compensation, including commissions and fees as the Trustees may determine; provided, however, that such transactions or contracts have been approved or ratified, after full disclosure of any affiliation, by a majority of the Trustees, or a majority of all members of an Investment Committee (in case of action taken by an Investment Committee), who are not Affiliates of any Person (other than the Trust) who is a party to the transaction.

Any Trustee, officer, employee or agent of the Trust may in his personal capacity, or in the capacity of trustee, officer, director, stockholder, member, adviser or employee of any Person, acquire, own, hold and dispose of Securities of the Trust, and may exercise all rights of a holder of such Securities to the same extent and in the same manner as if he were not such a Trustee, officer, employee or agent. The Trustees shall use their best efforts to obtain through the Adviser a continuing and suitable investment program, consistent with the investment policies and objectives of the Trust, and the Trustees shall be responsible for reviewing and approving or rejecting investment opportunities presented by the Adviser. So long as there is such Adviser, the Trustees shall have no responsibility for the origination of investment opportunities for the Trust. Any Trustee, officer, employee or agent of the Trust may, in his personal capacity, or in a capacity of trustee, officer, director, stockholder, partner, member, adviser or employee of any Person, have business interests and engage in business activities in addition to those relating to the Trust, which interests and activities may be similar to those of the Trust and may include the acquisition, syndication, holding, management, operation or disposition, for his own account or for the account of such Person, of interests in Mortgages, interests in Real Property, or interests in Persons engaged in the real estate business, and each Trustee, officer, employee and agent of the Trust shall be free of any obligation to present to the Trust any investment opportunity which comes to him in any capacity other than solely as Trustee, officer, employee or agent of the Trust, even if such opportunity is of a character which, if presented to the Trust, could be taken by