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REFERENCE : 822312 4331939

AUTHORIZATION :

Patricia Puyik

COST LIMIT : \$ ~~446.25~~ 402.50 per

Karen Rozer

ORDER DATE : May 18, 1998

ORDER TIME : 11:04 AM

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ORDER NO. : 822312-005

CUSTOMER NO: 4331939

CUSTOMER: Kristy Hair, Legal Assistant
Greenberg Traurig Hoffman
515 East Las Olas Boulevard
Suite 1500
Fort Lauderdale, FL 33301

FOREIGN FILINGS

NAME: CM MIAMI TRUST

****DECLARATION OF TRUST****

XXX QUALIFICATION (TYPE: CO)

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CONTACT PERSON: Tamara Odom

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EXECUTION COPY

TRUST AGREEMENT

CM Miami Trust

Dated as of April 27, 1998

among

M. SCOTT KIPP,
as Administrative Trustee

PNC BANK, DELAWARE,
as Delaware Trustee

ROBERT VALE FITZPATRICK,
as Independent Trustee
and

CM 98 INVESTORS, L.P.,
as Beneficiary

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TRUST AGREEMENT
CM Miami Trust

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This TRUST AGREEMENT, dated as of April 27, 1998 (this "Trust Agreement"), by and between CM 98 Investors, L.P., a Texas limited partnership, as beneficiary (herein, together with its permitted successors and assigns hereunder, the "Beneficiary"), M. Scott Kipp, an individual, as trustee (together with his permitted successors and assigns hereunder, in his individual capacity, "Scott Kipp"; and in his capacity as trustee hereunder, the "Administrative Trustee"), Robert Vale Fitzpatrick, as trustee (together with his permitted successors and assigns hereunder, in his individual capacity, "Fitzpatrick"; and in his capacity as trustee hereunder, the "Independent Trustee"), and PNC Bank, Delaware, as trustee (together with its permitted successors and assigns hereunder, in its individual capacity, the "Bank"; and solely in its capacity as trustee hereunder, the "Delaware Trustee", the Delaware Trustee, the Administrative Trustee, and the Independent Trustee being collectively referred to as the "Trustees").

Preliminary Statement

Whereas the Beneficiary and the Trustees desire to form a business trust (the "Trust") pursuant to the Delaware Business Trust Act, 12 Del.C. c.38 (the "Delaware Act"), for the purposes of holding legal title to the Property (such term and such other initially capitalized terms used but not defined herein being used as defined in Section 1.1 hereof); and

Whereas each of the Bank, Scott Kipp, and Fitzpatrick is willing to act as trustee under this Trust Agreement and accepts the trusts created hereby, subject to the terms and conditions of this Trust Agreement.

NOW, THEREFORE, in consideration of the premises and of mutual agreements herein contained and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

ARTICLE I

DEFINITIONS

1.1 Definitions. For all purposes of this Trust Agreement, initially capitalized terms used in this Trust Agreement and not otherwise defined herein shall have the meanings assigned to them in this Section 1.1.

(a) "Administrative Trustee" shall have the meaning ascribed thereto in the first paragraph of this Trust Agreement.

(b) "Assignment" means the Assignment of Leases and Rents, dated on or about May __, 1998, by and between the Trust and Lender.

(c) "Bank" shall have the meaning ascribed thereto in the first paragraph of this Trust Agreement.

(d) "Beneficiary" shall have the meaning ascribed thereto in the first paragraph of this Trust Agreement.

(e) "Default" shall have the meaning ascribed thereto in the Lease.

(f) "Delaware Act" shall have the meaning ascribed thereto in the Preliminary Statement of this Trust Agreement.

(g) "Delaware Trustee" shall have the meaning ascribed thereto in the first paragraph of this Trust Agreement.

(h) "Event of Default" shall have the meaning ascribed thereto in the Lease.

(i) "Indenture" means the Mortgage dated on or about May __, 1998, from the Trust to the Lender.

(j) "Independent Trustee" shall have the meaning ascribed thereto in the first paragraph of this Trust Agreement.

(k) "Lease" means the Lease, dated on or about May __, 1998, between the Trust and the Lessee with respect to the Property.

(l) "Lender" means PW Real Estate Investments Inc.

(m) "Lessee" means Circuit City Stores, Inc.

(n) "Loan Agreement" means the Loan Agreement, dated as of May __, 1998, between the Trust and the Lender.

(o) "Note" means the Note by the Trust to the Lender dated on or about May __, 1998 in the principal amount of \$_____.

(p) "Operative Agreements" means the Note, the Indenture, the Lease, the Assignment, the Subordination Agreement, the Loan Agreement and each other document and instrument which the Beneficiary may, from time to time, direct any Trustee to enter into on behalf of the Trust.

(q) "Person" means a natural person, or an entity in its own or any representative capacity.

(r) "Property" means the parcel of real property to be acquired by the Trust located at 1300 NW 98th Court, Miami, Florida.

(s) "Subordination Agreement" means the Subordination, Non-Disturbance and Attornment Agreement dated on or about May __, 1998 by and between the Lender and the Lessee.

(t) "Trust Estate" means all legal title to the Property and all other property, real or personal, of the Trust.

(u) "Trustees" shall have the meaning ascribed thereto in the first paragraph of this Trust Agreement.

ARTICLE II

AUTHORITY OF TRUSTEES; DECLARATION OF TRUST

2.1 Authority of Trustee. (a) The Beneficiary authorizes and directs the Administrative Trustee: (i) to execute and deliver, in the name and on behalf of the Trust, each Operative Agreement and all other agreements, instruments, certificates or documents related to the transactions contemplated thereby to which the Trust is a party, and to execute, deliver and issue the Note (ii) to take whatever action shall be required to be taken by the Trustees or the Trust by the terms of, and exercise the rights and perform the duties under, each of the documents, agreements, instruments and certificates referred to in clause (i) above, and (iii) subject to the terms of the this Trust Agreement, to take such other action in connection with the foregoing as the Beneficiary may from time to time direct. Except as specified in the preceding sentence, the Administrative Trustee shall take no action hereunder except as expressly directed by the Beneficiary.

(b) The Beneficiary authorizes and directs the Trustees to execute, and to cause to be filed in the Office of the Secretary of State of the State of Delaware, a Certificate of Trust in the form required by the Delaware Act, and to execute and cause to be filed in the Office of the Secretary of State of the State of Delaware such amendments to such Certificate of Trust as may, from time to time, be required under 3810(b) of the Delaware Act.

2.2 Declaration of Trust. Each of the Trustees declares that it holds all estate, right, title and interest of the Trust in the Trust Estate, as Trustee upon the trusts and subject to the terms set forth herein and for the use and benefit of the Beneficiary.

ARTICLE III

DISTRIBUTIONS

3.1 Priority of Distributions. Subject to the terms and requirements of the Operative Agreements, all payments and amounts received by the Trust or by any Trustee, on its behalf, shall be applied forthwith upon receipt in the following order of priority; first, so much of such payment or amount as shall be required to pay or reimburse the Bank for any fees, compensation, indemnification or expenses (including reasonable attorneys' fees and expenses) not otherwise paid or reimbursed to the Bank and as to which the Bank is entitled to be paid or reimbursed hereunder shall be retained by the Bank; and, second, the balance, if any, of such amounts remaining thereafter shall be distributed promptly following receipt by the Trustee to the Beneficiary or as the Beneficiary shall direct.

ARTICLE IV

DUTIES OF THE ADMINISTRATIVE TRUSTEE; CERTAIN RIGHTS OF TRUSTEES

4.1 Notice of Certain Events. In the event the Administrative Trustee shall have actual knowledge of any Default or Event of Default, the Administrative Trustee shall give prompt telephonic notice thereof followed by written confirmation to the Beneficiary and any other Person identified in writing by the Beneficiary to the Administrative Trustee. Subject to the provisions of Section 4.3, the Administrative Trustee shall take or refrain from taking such action, not inconsistent with the provisions of the Operative Agreements, with respect thereto as the Beneficiary shall direct by written instructions to the Administrative Trustee. If the Administrative Trustee shall have given the Beneficiary notice of any event and shall not have received written instructions as above provided within thirty (30) days after giving notice in accordance with Section 10.4 of such event to the Beneficiary, the Administrative Trustee may, but shall be under no duty to, and shall have no liability for its failure or refusal to, take or refrain from taking any action with respect thereto, not inconsistent with the provisions of the Operative Agreements, as the Administrative Trustee shall deem advisable and in the best interests of the Beneficiary.

4.2 Action upon Instructions. Subject to the provisions of Section 4.3, upon the written instructions of the Beneficiary, the Administrative Trustee will take or refrain from taking such action or actions, not inconsistent with the provisions of the Operative Agreements, as may be specified in such instructions. If the Administrative Trustee is unable to determine whether any such action or actions that it has been instructed to take by the Beneficiary are not inconsistent with the provisions of the Operative Agreements, the Administrative Trustee shall give notice in accordance with Section 10.4 of such proposed action or actions to the Beneficiary and unless, within ten (10) Business Days, the Beneficiary advise the Administrative Trustee in writing that the proposed action or actions are inconsistent with the provisions of the Operative Agreements (including specific reference

to the particular provisions in question), the Administrative Trustee shall be entitled to presume that the proposed action or actions are not inconsistent with the provisions of the Operative Agreements and the Administrative Trustee shall proceed in accordance with such instructions.

4.3 Indemnification. No Trustee shall be required to take or refrain from taking any action under this Trust Agreement or any other Operative Agreement unless such Trustee shall have been indemnified by the Beneficiary, in manner and form reasonably satisfactory to such Trustee, against any liability, fee, cost or expense (including reasonable attorneys' fees and expenses) that may be incurred or charged in connection therewith, other than such as may result from the willful misconduct or gross negligence of such Trustee or, with respect to the Administrative Trustee, from the failure of the Administrative Trustee to use ordinary care in the receiving, handling and disbursing of funds.

4.4 No Duties Except as Specified in Trust Agreement or Instructions. No Trustees shall have any duty or obligation to manage, control, use, make any payment in respect of, register, record, insure, inspect, sell, dispose of or otherwise deal with the Property, or any other part of the Trust Estate, or to otherwise take or refrain from taking any action under or in connection with any Operative Agreement, except as expressly provided by the terms of this Trust Agreement or in written instructions from the Beneficiary; and no implied duties or obligations shall be read into this Trust Agreement against of the Trustees.

4.5 No Independent Action. The Trustees agree that they will not manage, control, use, sell, dispose of or otherwise deal with the Property, or any other part of the Trust Estate, except in accordance with the express terms of this Trust Agreement or any other Operative Agreement.

4.6 Delegation to Agents, Etc. The Administrative Trustee, in the exercise or administration of the trusts and powers hereunder, including its obligations under Section 4.2 hereof, may, at the reasonable expense of the Trust, employ agents, attorneys, accountants and auditors and enter into agreements with any of them, and the Administrative Trustee shall not be liable, either in its individual capacity or in its capacity as trustee, for the default or misconduct of any such agents, attorneys, accountants or auditors if such agents, attorneys, accountants or auditors shall have been selected by it in good faith.

ARTICLE V

THE TRUSTEES

5.1 Acceptance of Trust and Duties. The Trustees accept the trusts hereby created and agree to perform the same, but only upon the terms and conditions of this Trust Agreement. The Trustees shall not be answerable or accountable under any circumstances, except for (i) their own willful misconduct or gross negligence, (ii) the inaccuracy of any of

their representations or warranties contained in this Trust Agreement, (iii) taxes based on or measured by any fees, commissions or compensation received by them for acting as Trustees in connection with any of the transactions contemplated by the Operative Agreements, or (iv) with respect to the Administrative Trustee, the failure of the Administrative Trustee to use ordinary care in receiving, handling and disbursing of funds.

5.2 Furnishing of Documents. Each Trustee other than the Independent Trustee will furnish to the Beneficiary, and to such other Persons as the Beneficiary shall direct in writing, promptly upon receipt thereof, duplicates or copies of all reports, notices, requests, demands, opinions, certificates, financial statements and any other instruments or writings furnished to such Trustee hereunder or to the Trust under the Operative Agreements, unless by the express terms of any Operative Agreement a copy of the same is required to be furnished by some other Person directly to the Beneficiary, or such Trustee shall have determined that the same has already been furnished to the Beneficiary.

5.3 No Representations or Warranties as to any Property or Operative Agreements. Neither the Bank, the Delaware Trustee, Scott Kipp, the Administrative Trustee, Fitzpatrick, the Independent Trustee nor any Beneficiary makes (i) ANY REPRESENTATION OR WARRANTY, EITHER EXPRESS OR IMPLIED, AS TO THE TITLE, VALUE, CONDITION, DESIGN, OPERATION, MERCHANTABILITY OR FITNESS FOR USE OF ANY PROPERTY OR ANY OTHER REPRESENTATION, EXPRESS OR IMPLIED, WITH RESPECT TO ANY PROPERTY WHATSOEVER, and (ii) no representation or warranty as to the validity or enforceability of any Operative Agreement or as to the correctness of any statement made by a Person other than it contained in any thereof, except that each of the Bank, Scott Kipp, Fitzpatrick and the Beneficiary represents, warrants and covenants that this Trust Agreement has been, and that each of the other Operative Agreements to which it is a party has been or will be, duly executed and delivered by a Person who is, or will be, duly authorized to execute and deliver such documents on its behalf.

5.4 Segregation of Moneys. Except as otherwise provided herein or in any of the other Operative Agreements, any moneys received by the Trustees hereunder need not be segregated in any manner, except as may be required by law.

5.5 Reliance; Advice of Counsel. No Trustee shall incur any liability to any Person in acting upon any signature, instrument, notice, resolution, request, consent, order, certificate, report, opinion, bond or other document or paper believed by it to be genuine and believed by it in good faith to be signed by the proper party or parties. A Trustee may accept and rely upon (a) a certified copy of a resolution of the board of directors or other governing body of any corporate party and (b) a copy certified by any general partner of any resolution of any partnership party as conclusive evidence that such resolution has been duly adopted by such party and that the same is in full force and effect. As to any fact or matter the manner of ascertainment of which is not specifically prescribed herein, a Trustee may for all purposes hereof rely on an officer's or general partner's certificate of the relevant party,

as to such fact or matter, and such certificate shall constitute full protection to such Trustee for any action taken or omitted to be taken by it in good faith in reliance thereon. In the administration of the Trust, a Trustee may execute any of the trusts or powers hereof and perform its powers and duties hereunder directly or through agents or attorneys and may consult with counsel, accountants and other skilled Persons to be selected and employed by it, and no Trustee shall be liable for anything done, suffered or omitted in good faith by it in accordance with the advice or opinion of any such counsel, accountants or other skilled Persons.

5.6 Liability with Respect to Documents. Neither any Trustee, in its individual capacity or as Trustee, nor the Beneficiary shall incur any liability to any Person for or in respect of the recitals herein, the validity or sufficiency of this Trust Agreement or for the due execution hereof by any other party hereto or for the form, character, genuineness, sufficiency, value or validity of any part of the Trust Estate or for or in respect of the validity or sufficiency of any of the Operative Agreements and neither Trustee, in its individual capacity or as trustee, nor the Beneficiary shall assume or incur any liability, duty or obligation to any other Person except as expressly provided herein.

5.7 Not Acting in Individual Capacity. All Persons (other than the Beneficiary to the extent provided herein) having any claim against either Trustee, in its individual capacity or as trustee, by reason of the transactions contemplated by the Operative Agreements shall look only to the Trust Estate (or a part thereof, as the case may be) for payment or satisfaction thereof, except as specifically provided in this Article V.

5.8 Books and Records; Tax Returns.

(a) Each of the Beneficiary and the Trustees shall treat the Trust as the equivalent of an Illinois land trust of the type described in Revenue Ruling 92-105, 1992-2 C.B. 204 for federal and state income tax purposes.

(b) No Trustee, either in its trust or individual capacity, shall be under any obligation to appear in, prosecute or defend any action, which in its opinion may require it to incur any out-of-pocket expense or any liability unless it shall be furnished with such reasonable security and indemnity against such expense or liability as it may require. The Beneficiary may, but shall be under no duty to, undertake such action as it may deem necessary at any and all times, without any further action by the Trustees to protect the Trust Estate and the rights and interests of the Beneficiary pursuant to the terms of this Trust Agreement.

ARTICLE VI

INDEMNIFICATION AND COMPENSATION OF THE TRUSTEES

6.1 The Beneficiary to Indemnify Scott Kipp, Fitzpatrick, and the Bank. The Beneficiary agrees to assume liability for, and to indemnify and hold harmless each of Scott Kipp, Fitzpatrick and the Bank and each of their respective officers, directors, employees and agents (hereinafter, the "Indemnitees") from and against, any and all obligations, liabilities, losses, actions, suits, penalties, taxes (other than any taxes on, based on or measured by the compensation received by such Indemnatee for acting as Trustee hereunder), claims, demands, costs and expenses (including without limitation reasonable attorneys fees and expenses) of any nature whatsoever which may be imposed on, incurred by or asserted at any time against such Indemnatee in any way relating to or arising out of the Trust, the administration of the Trust Estate or any action or inaction of such Indemnatee hereunder, under the Operative Agreements or any transaction contemplated thereby, or in any way relating to or arising out of or alleged to arise out of (a) the financing, refinancing, purchase, acceptance, rejection, ownership, design, construction, delivery, nondelivery, leasing, sub-leasing, possession, use, operation, repair, modification, transportation, condition, sale, return, repossession (whether by summary proceedings or otherwise), or any disposition of the Property or any part of the Trust Estate; (b) any latent or other defects whether or not discoverable; (c) a violation of environmental laws, or other loss of or damage to the Property or the environment relating to the Property or the Beneficiary; (d) any breach by the Beneficiary of any of its representations or warranties under the Operative Agreements or failure by the Beneficiary to perform or observe any covenant or agreement to be performed by it under any of the Operative Agreements; (e) personal injury, death or property damage, including claims based on strict liability in tort; and (f) any liability incurred by the Bank or Scott Kipp or the Administrative Trustee in connection with the filing of any tax return of the Trust except only that the Beneficiary shall not be required to indemnify such Indemnatee for expenses arising or resulting from any of the matters described in the last sentence of Section 5.1 hereof. The indemnities contained in this Section 6.1 shall survive the resignation or removal of the Trustee and the termination of the Trust and/or this Trust Agreement.

6.2 Compensation and Expenses. The Bank shall receive from the Beneficiary as compensation for its services hereunder such fees as shall, from time to time, be agreed upon by the Beneficiary and the Bank. The Bank shall also be entitled to be reimbursed by the Beneficiary for its reasonable expenses (including reasonable attorneys' fees) incurred in the performance of its duties as Trustee hereunder and to be compensated reasonably for any extraordinary services rendered hereunder at the request of the Beneficiary.

ARTICLE VII

TERMINATION OF TRUST AGREEMENT

7.1 Termination of Trust Agreement. This Trust Agreement and the Trust shall terminate and the Trust Estate shall, subject to the provisions of the other Operative Agreements and Article III hereof, be distributed to the Beneficiary, and this Trust Agreement shall be of no further force or effect, upon the earlier of (i) the written request of the Beneficiary following the sale or other final disposition of all property constituting part of the Trust Estate and the final distribution by the Trustee or its agent of all moneys or other property or proceeds constituting part of the Trust Estate in accordance with the terms of Article IV and (ii) the date that is one hundred-ten (110) years after the earliest execution of this Trust Agreement by any party hereto. Notwithstanding any other provision of this Trust Agreement to the contrary, so long as the lien of the Indenture has not been released or payment of the principal of, and premium, if any, and interest on, the Note has not been paid in full, neither this Trust Agreement nor the Trust may be terminated, nor may the purpose or the power of the Trust be amended, by the Beneficiary, except (a) in the event of the sale of the Property to a third Person, which sale does not violate the provisions of the Indenture, (b) with the consent of the Indenture Trustee(s) or (c) in accordance with the terms of Section 7.2 hereof.

7.2 Termination at Option of the Beneficiary. Notwithstanding Section 7.1, this Trust Agreement and the Trust shall terminate (and subject to Article III hereof, the Trust Estate shall be distributed to the Beneficiary) and this Trust Agreement shall be of no further force and effect upon the election of the Beneficiary by written notice to the Trustee, if such notice shall be accompanied by the written agreement of the Beneficiary assuming all the obligations of the Trustee and the Trust under or contemplated by the Operative Agreements and all other obligations of the Trustee incurred by it as trustee hereunder. Such written agreement shall be reasonably satisfactory in form and substance to the Trustee and shall release the Trustee from all further obligations of such Trustee hereunder and under the agreements and other instruments mentioned in the preceding sentence.

7.3 Actions by the Administrative Trustee upon Termination. Upon termination of this Trust Agreement and the Trust pursuant to Section 7.1 or 7.2 and the winding up of the Trust, the Administrative Trustee shall execute and file in the Office of the Secretary of State of the State of Delaware a Certificate of Cancellation in the form required by Section 3810(d) of the Delaware Act.

ARTICLE VIII

SUCCESSOR TRUSTEES, CO-TRUSTEES AND SEPARATE TRUSTEES

8.1 Resignation of Trustee; Appointment of Successor.

(a) Any Trustee may resign at any time without cause by giving at least 30 days' prior written notice to the Beneficiary, such resignation to be effective on the acceptance of appointment by a successor Trustee under Section 8.1(b). Any Trustee other than the Independent Trustee may be removed with or without cause at any time by the Beneficiary with 5 days' prior written notice. Any such removal shall be effective in accordance with its terms. In case of the resignation or removal of a Trustee, the Beneficiary may appoint a successor Trustee by an instrument signed by the Beneficiary. If a successor Trustee shall not have been appointed within 30 days after the giving of written notice of a resignation by Trustee, such Trustee may apply to any court of competent jurisdiction to appoint a successor Trustee. Any successor Trustee so appointed by such court shall immediately and without further act be superseded by any successor Trustee appointed by the Beneficiary.

(b) Any successor Trustee, however appointed, shall execute and deliver to the predecessor Trustee an instrument accepting such appointment, and thereupon such successor Trustee, without further act shall become vested with all the estates, properties, rights, powers, duties and trusts of the predecessor Trustee in the trusts hereunder with like effect as if originally named a Trustee herein; but nevertheless, upon the written request of such successor Trustee such predecessor Trustee shall execute and deliver an instrument transferring to such successor Trustee, upon the trusts herein expressed, all the estates, properties, rights, powers, duties and trusts of such predecessor Trustee, and such predecessor Trustee shall duly assign, transfer, deliver and pay over to successor Trustee all moneys or other property then held by such predecessor Trustee upon the trusts herein expressed.

(c) Notwithstanding any provision herein to the contrary, after a Person becomes a trustee, the Trust shall within 10 days of the appointment give written notice of such Person's name, mailing and delivery address, telephone and telecopier numbers and the name and title of a responsible officer of such Person (if other than an individual person) to the Delaware Trustee.

8.2 Co-Trustees and Separate Trustees. Whenever the Beneficiary shall deem it necessary or prudent in order either to conform to any law of any jurisdiction in which all or any part of the Trust Estate shall be situated or to make any claim or bring any suit with respect to the Trust Estate, or any Operative Agreement, or the Beneficiary shall be advised by counsel satisfactory to the Beneficiary, that it is necessary or prudent, the Beneficiary shall execute and deliver an agreement supplemental hereto and all other instruments and

agreements, and shall take all other action, necessary or proper to appoint one or more Persons (and the Beneficiary may appoint one or more of its officers) either as co-trustee or co-trustees jointly with the Trustee of all or any part of the Trust Estate, or as separate trustee or separate trustees of all or any part of the Trust Estate, and to vest in such Persons, in such capacity, such title to the Trust Estate or any part thereof and such rights or duties as may be necessary or desirable, all for such period and under such terms and conditions as are satisfactory to the Beneficiary. In case any co-trustee or separate trustee shall die, become incapable of acting, resign or be removed, the title to the Trust Estate and all rights and duties of such co-trustee or separate trustee shall, so far as permitted by law, vest in and be exercised by the Trustee, without the appointment of a successor to such co-trustee or separate trustee.

ARTICLE IX

SUPPLEMENTS AND AMENDMENTS

9.1 Supplements and Amendments. Subject to Sections 9.2 and 9.3 hereof, at the written request of the Beneficiary, this Trust Agreement shall be amended by a written instrument signed by the Trustees and the Beneficiary, but if in the opinion of any Trustee any instrument required to be so executed adversely affects any rights, duty or liability of, or immunity or indemnity in favor of, it under this Trust Agreement, any of the Operative Agreements to which it is a party, or would cause or result in any conflict with or breach of any terms, conditions or provisions of, or default under, its charter documents or by-laws or any document contemplated hereby to which it or such Trustee is a party, either the Trustee may in its sole discretion decline to execute such instrument, unless it shall have been provided an indemnity satisfactory to it by the Beneficiary.

9.2 No Conflict with Operative Agreements. Notwithstanding anything to the contrary contained in this Trust Agreement, the Beneficiary shall not amend this Trust Agreement if such proposed Amendment conflicts with the Operative Agreements or adversely affects the ability of the Trust to perform any obligation of the Trust under the Operative Agreements.

9.3 Independent Trustee. Notwithstanding anything in this Trust Agreement to the contrary, so long as the Operative Agreements are in effect:

1. The unanimous consent of all of the Trustees (including that of the Independent Trustee) shall be required for the Trust to take any of the following actions:

- (a) File or consent to the filing of any bankruptcy, insolvency or reorganization case or proceeding; institute any proceedings under any applicable

insolvency law or otherwise seek any relief under any laws relating to the relief from debts or the protection of debtors generally;

- (b) Seek or consent to the appointment of a receiver, liquidator, assignee, trustee, sequestrator, custodian or any similar official for the Trust or a substantial portion of its properties;
- (c) Make any assignment for the benefit of the Trust's creditors;
- (d) Amend the provisions of this Section 9.3; or
- (e) Take any action in furtherance of any of the foregoing.

2. At all times, the Trust shall have at least one (1) Independent Trustee. Upon the disassociation or withdrawal of the Independent Trustee from the Trust or the bankruptcy, insolvency or liquidation of the Independent Trustee, the Beneficiary shall appoint a new Independent Trustee, and deliver an acceptable non-consolidation opinion to the holder of the Operative Agreements, and to any applicable rating agency concerning, as applicable, the Trust, the new Independent Trustee and the Beneficiary

3. The provisions of Section 7.1(c) and Section 7.2 shall be of no force or effect.

4. Neither any of the Trustees nor the Beneficiary shall have the authority to take any action which will cause the Trust to violate or not comply with any of the representations, warranties and covenants of the Indenture. In addition, the Trust will at all times comply with all of the representations, warranties and covenants of the aforesaid Indenture in order to cause such representations, warranties and covenants to remain true and correct in all respects, and all of these provisions are and shall be deemed a part of this Agreement.

5. The Independent Trustee has no obligations or responsibilities whatsoever other than to consent or not consent (as such Independent Trustee determines in his business judgment) to the matters referred to in subsection 1 of this Section 9.3.

6. There can be no amendment of the provisions of Sections 4.5, 5.7, 7.1, 8.1, 10.15 or this Section 9.3 without the consent of the Lender, or after the securitization of the Loan unless the Trust receives (i) written confirmation from each of the applicable rating agencies that such amendment would not result in the qualification,

withdrawal or downgrade of any securities rating, and (ii) approval of such amendment by the Lender or its assigns.

7. The Trust shall at all times cause there to be at least one duly appointed Trustee of the Trust (an "Independent Trustee") reasonably satisfactory to Lender who is not at the time of initial appointment and has not been at any time during the preceding five (5) years: (a) a stockholder, director, officer, employee or partner, attorney or counsel of the Beneficiary or any Affiliate (as defined in the Loan Agreement) of either of them; (b) a customer or supplier to the Beneficiary or any Affiliate thereof (c) a person or other entity controlling or under common control with any such stockholder, partner, customer, supplier or other person; or (d) a member of the immediate family of any such stockholder, director, officer, employee, partner, customer, supplier or other person. (As used herein, the term "control" means the possession, directly or indirectly, of the power to direct or cause the direction of management, policies or activities of a person or entity, whether through ownership of voting securities, by contract or otherwise.)

8. Any transfer of the Beneficiary's interest in the Trust shall be in compliance with the Indenture.

ARTICLE X

MISCELLANEOUS

10.1 No Legal Title to Trust Estate in the Beneficiary. The Beneficiary shall not have legal title to any part of the Trust Estate; provided, that the Beneficiary shall have a beneficial interest in the Trust Estate. No transfer, by operation of law or otherwise, of any right, title or interest of the Beneficiary in and to the Trust Estate or hereunder shall operate to terminate this Trust Agreement or the trusts created hereby or entitle any successor or transferee to an accounting or to the transfer to it of legal title to any part of the Trust Estate.

10.2 Sale of Properties by the Administrative Trustee is Binding. Any sale, transfer, mortgage, or other conveyance of any of the Trust Estate or any part thereof by the Administrative Trustee on behalf of the Trust made pursuant to the terms of this Trust Agreement or any other Operative Agreement shall bind the Beneficiary and shall be effective to sell, transfer, mortgage, and convey all right, title and interest of the Administrative Trustee and the Beneficiary in and to the Trust Estate or any part thereof intended to be sold, transferred, mortgaged or conveyed. No purchaser or other grantee shall be required to inquire as to the authorization, necessity, expediency or regularity of such sale, mortgage or conveyance or as to the application of any sale or other proceeds with respect thereto by the Administrative Trustee. Nothing herein shall be deemed to permit any sale, transfer or other conveyance of the Trust Estate or any part thereof by the Administrative Trustee on behalf of the Trust other than in accordance with the terms of the Operative Agreements or as explicitly directed by the Beneficiary.

10.3 Limitations on Rights of Others. Nothing in this Trust Agreement, whether express or implied, shall be construed to give to any Person, other than Scott Kipp, the Administrative Trustee, Fitzpatrick, the Independent Trustee, the Bank, the Delaware Trustee and the Beneficiary any legal or equitable right, remedy or claim under or in respect of this Trust Agreement, any covenants, conditions or provisions contained herein or in the Trust Estate. Without limiting the generality of the foregoing, as provided in Section 3805 of the Delaware Act, no creditor of a Beneficiary shall have any right to obtain possession of, or otherwise exercise legal or equitable remedies with respect to, the Trust Estate.

10.4 Notices. Unless otherwise expressly specified or permitted by the terms hereof, notices and communications required or permitted to be given or made under the terms hereof shall be in writing. Any such communication or notice shall be deemed to have been duly made or given (i) upon personal delivery, including, without limitation, by express mail or courier service, (ii) in the case of mail delivery, upon receipt, refusal of delivery or return for failure of the intended recipient to retrieve such communication, or (iii) in the case of transmission by facsimile, upon telephone and return facsimile confirmation and, in each case, if addressed to the intended recipient at the following office, or to such other address or addressee as the parties may from time to time designate in writing to the parties hereto:

The Beneficiary:

CM 98 Investors, L.P.
c/o Cardinal Capital Partners, Inc.
8411 Preston Road, 8th Floor
Dallas, TX 75225
Attn: M. Scott Kipp
Phone: (214) 696-3600

The Delaware Trustee:

PNC Bank, Delaware
222 Delaware Avenue
17th Floor
Wilmington, DE 19801

Attn: Corporate Financial Services
Phone: (302) 429-1546
Fax: (302) 429-7118

The Administrative Trustee:

M. Scott Kipp
c/o Cardinal Capital Partners, Inc.
8411 Preston Road, 8th Floor
Dallas, TX 75225
Phone: (214) 696-3600

The Independent Trustee:

Robert Vale Fitzpatrick
8411 Preston Road
Dallas, TX 75225

10.5 Severability. Any provision of this Trust Agreement that may be determined by competent authority to be prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof, and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

10.6 Limitation on the Beneficiary's Liability. The Beneficiary shall not have any liability for the performance of the Trust except as expressly set forth herein.

10.7 Separate Counterparts. This Trust Agreement may be executed by the parties hereto in separate counterparts, each of which when so executed and delivered shall be an original, but all such counterparts shall together constitute but one and the same instrument.

10.8 Successors and Assigns. All covenants and agreements contained herein shall be binding upon, and inure to the benefit of, the parties hereto and their respective successors and assigns, all as herein provided. Any request, notice, direction, consent, waiver or other instrument or action by the Beneficiary shall bind the successors and assigns of the Beneficiary.

10.9 Headings and Table of Contents. The headings and table of contents of the various articles and sections herein are for convenience of reference only and shall not define or limit any of the terms or provisions hereof.

10.10 Governing Law. This Trust Agreement shall be governed by, and construed in accordance with, the law of the State of Delaware. The Trust created hereby shall be deemed a Delaware business trust for all purposes of the Delaware Act.

10.11 Performance by the Beneficiary. Any obligation of a Trustee hereunder or under any Operative Agreement or other document contemplated herein may be performed by the Beneficiary and any such performance shall not be construed as a revocation of the trusts created hereby.

10.12 No Implied Waiver. No term or provision of this Trust Agreement may be changed, waived, discharged or terminated orally, but only by an instrument in writing entered into as provided in Section 9.1; and any such waiver of the terms hereof shall be effective only in the specific instance and for the specific purpose given.

10.13 Name. The Name of the Trust created by this Trust Agreement is CM Miami Trust.

10.14 Notice of Beneficiary Appointment. Notwithstanding any provision herein to the contrary, after a Person becomes a Beneficiary, the Trust shall within 10 days

of the appointment give written notice of such Person's name, mailing and delivery address, telephone and telecopier numbers and the name and title of a responsible officer of such Person (if other than an individual person) to the Delaware Trustee. The Beneficiary shall not be released from liability to the Delaware Trustee for the fees and charges pursuant to the Fee Agreement until it complies with the notice set forth in this section.

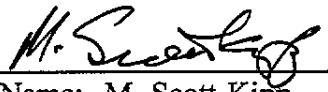
10.15 Special Purpose Covenant. For purposes of this section 10.15 all defined terms shall have the meaning as set forth in the Loan Agreement. The Company shall (a) hold itself out as an entity that is legally and in fact separate from any other Person; (b) conduct its business in its own name and will use its own name for purposes of obtaining required registrations, licenses and permits (whether governmental, administrative or otherwise) necessary to the conduct of its business; (c) correct any known misunderstanding regarding its separate identity; (d) maintain its books and records separate from any other Person and if required to a tax return, will file such tax return separate from any other Person; (e) maintain its funds and accounts separate from any other Person; (f) not commingle its assets with those of any other Person; (g) maintain financial statements separate from the financial statements of any other Person; (h) use stationery, invoices and checks separate from those of any other Person; (i) pay its liabilities out of its own funds; (j) not acquire obligations or securities of its Affiliates; (k) pay the salaries of its employees, if any, and maintain a sufficient number of employees in light of its contemplated business operations; (l) allocate fairly and reasonably any overhead for shared office space; (m) maintain adequate capital in light of its contemplated business operations and purpose; (n) not guarantee or become obligated for the debts of any other Person or hold out its credit as being available to satisfy the obligations of others; (o) except as set forth in the Operative Documents, not pledge its assets for the benefit of any other Person or make any loans or advances to any Person; (p) not create, incur, assume, guaranty, agree to purchase or repurchase or provide funds in respect of any indebtedness other than the Loan and unsecured trade debt incurred in the ordinary course of business; (q) not engage in any business or activity other than holding an interest in and leasing the Premises and the exercise of rights under and the performance of obligations under the Operative Documents (including making Permitted Investments), and business and activities directly related to the Overall Transaction; (r) not purchase or agree to purchase any property or asset (other than the Premises); (s) except as expressly provided in Section 4.11 of the Loan Agreement, not dissolve, liquidate, consolidate, merge or sell all or substantially all of its assets; and (t) not amend its organizational documents to violate the separateness covenants or to remove the Independent Trustee without the prior written consent of the Lender. The Company will not, except as otherwise provided in Section 4.11 of the Loan Agreement, grant any Lien (or consent to such Lien) on the Mortgaged Property or any interest therein to, or for the benefit of, any Person other than the Lender, without the Lender's prior written consent.

IN WITNESS WHEREOF, the parties hereto have caused this Trust Agreement to be duly executed by their respective officers hereunto duly authorized as of the date and year first above written.

BENEFICIARY:

CM⁹⁸ Investors, L.P., a Texas limited partnership

By: Circuit General Partner #4, Inc., a Texas corporation, as general partner

By: 
Name: M. Scott Kipp
Title: Asst. Vice President

DELAWARE TRUSTEE:

PNC Bank, Delaware

By: _____
Name:
Title:

ADMINISTRATIVE TRUSTEE:


M. Scott Kipp

INDEPENDENT TRUSTEE:


Robert Vale Fitzpatrick

IN WITNESS WHEREOF, the parties hereto have caused this Trust Agreement to be duly executed by their respective officers hereunto duly authorized as of the date and year first above written.

BENEFICIARY:

CM~~98~~Investors, L.P., a Texas limited partnership

By: Circuit General Partner #4, Inc., a Texas corporation, as general partner

By: _____
Name: M. Scott Kipp
Title: Asst. Vice President

DELAWARE TRUSTEE:

PNC Bank, Delaware

By: *Diane E. Parke*
Name: DIANE E. PARKE
Title: CORPORATE TRUST OFFICER

ADMINISTRATIVE TRUSTEE:

M. Scott Kipp

INDEPENDENT TRUSTEE:

Robert Vale Fitzpatrick

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AFFIDAVIT

STATE OF Texas)
) SS.:
 COUNTY OF Dallas

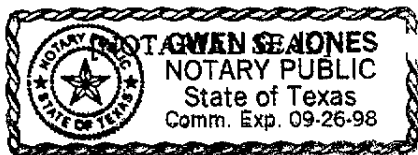
In accordance with Section 609.02, Florida Statutes, pertaining to Common Law Declarations of Trust, the undersigned, the Administrative Trustee of CM MIAMI TRUST, a Delaware Business Trust, hereby affirms, in order to file or qualify CM MIAMI TRUST (hereinafter referred to as the "Business Trust"), in the State of Florida:

1. The principal address is: c/o Cardinal Capital Partners, Inc., 8411 Preston Road, Suite 850, Dallas, Texas 75225.
2. The street address of the initial registered office of the Business Trust is 1201 Hays Street, Tallahassee, Florida 32301. The name of the initial registered agent of the Business Trust at that address is Corporation Service Company.
3. Attached hereto is a true and correct copy of the Declaration of Trust under which the Business Trust proposes to conduct its business in Florida.

CM MIAMI TRUST

By: [Signature]
 Print Name: M. SCOTT KIPP
 Administrative Trustee

SWORN TO AND SUBSCRIBED before me this 15 day of May, 1998 by M. Scott Kipp. He personally appeared before me, is personally known to me or produced _____ as identification.



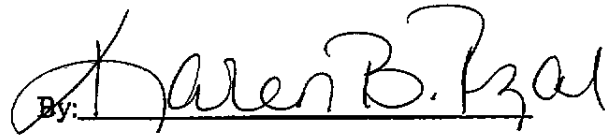
Notary: [Signature]
 Print Name: Gwen G. Jones
 Notary Public, State of Texas
 My commission expires: 09-26-98

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DIVISION OF CORPORATIONS
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**ACCEPTANCE BY REGISTERED AGENT
OF
CM MIAMI TRUST**

The undersigned, Corporation Service Company, whose business address is 1201 Hays Street, Tallahassee, Florida 32301, having been named as registered agent of **CM MIAMI TRUST**, accepts the appointment as registered agent and agrees to act in this capacity.

CORPORATION SERVICE COMPANY
Registered Agent

By: 

Karen B. Rozar, As Its Agent