

SECURITIES AND EXCHANGE COMMISSION
Washington, DC 20549

FORM 8-K

CURRENT REPORT

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

Date of Report (date of earliest event reported) October 8, 1998

IMPAC MORTGAGE HOLDINGS, INC.
(Name of registrant as specified in its charter)

MARYLAND
(State or other jurisdiction of
incorporation or organization)

33-0675505
(I.R.S. employer
identification number)

20371 IRVINE AVENUE
SANTA ANA HEIGHTS, CALIFORNIA
(Address of principal executive offices)

92707
(Zip Code)

ISSUER'S TELEPHONE NUMBER: (714) 556-0122

(Former name or former address, if changed since last report)

Item 5. Other Events

On December 22, 1998, in connection with the Company's Prospectus Supplement to the Prospectus, File No. 333-34137 (the "Registration Statement"), that was declared effective by the Securities and Exchange Commission on May 8, 1998, the Company entered into a Placement Agent Agreement (the "Placement Agent Agreement") with EVEREN Securities, Inc. (the "Placement Agent"). The Placement Agent Agreement provides for the offer and sale of 1,200,000 shares of Series B 10.5% Cumulative Convertible Preferred Stock (the "Preferred Stock") by the Placement Agent on a best efforts basis. The Placement Agent is not obligated and does not intend to itself take (or purchase) any of the Preferred Stock.

The Placement Agent has been filed as an exhibit to this report and is incorporated by reference herein. This report, including the Placement Agent Agreement filed as an exhibit hereto, is incorporated by reference into the Registration Statement.

Item 7. Financial Statements and Exhibits

(c) Exhibits

1.3 Form of Placement Agent Agreement

3.1b Articles Supplementary

4.9 Form of Series B 10.5% Cumulative Convertible Preferred Stock Certificate

12.2 Computation of Ratio of Earnings to Fixed Charges and Preferred Stock Dividends

23.1 Independent Auditors' Consent IMH

23.2 Independent Auditors' Consent IFC

SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, the Registrant has duly caused this Report to be signed on its behalf by the undersigned, hereunto duly authorized.

Date: December 23, 1998

IMPAC MORTGAGE HOLDINGS, INC.

BY: /s/ Richard Johnson

Richard Johnson
Executive Vice President Finance
and Chief Financial Officer

Impac Mortgage Holdings, Inc.

1,200,000 Shares of Series B 10.5% Cumulative Convertible Preferred Stock
(\$25 Liquidation Preference Per Share)

December 22, 1998

PLACEMENT AGENCY AGREEMENT

EVEREN Securities, Inc.

Impac Mortgage Holdings, Inc.

1,200,000 Shares of Series B 10.5% Cumulative Convertible Preferred Stock
(\$25 Liquidation Preference Per Share)

PLACEMENT AGENCY AGREEMENT

December 22, 1998

EVEREN Securities, Inc.
77 West Wacker Drive
Chicago, Illinois 60601-1994
as Placement Agent

Dear Sir or Madam:

Impac Mortgage Holdings, Inc., a Maryland corporation (the "Company"), proposes to issue and sell up to 1,200,000 shares (the "Shares") of Series B 10.5% Cumulative Convertible Preferred Stock (the "Series B Preferred Stock"), to certain investors (collectively, the "Investors"). The Company desires to engage you as its exclusive placement agent (the "Placement Agent") in connection with such issuance and sale. The Series B Preferred Stock is more fully described in the Prospectus (as defined herein).

The Company hereby confirms as follows its agreements with the Placement Agent.

1. Agreement to Act as Placement Agent. On the basis of the representations, warranties and agreements of the Company herein contained and subject to all the terms and conditions of this Agreement, the Placement Agent agrees to act as the Company's exclusive placement agent in connection with the issuance and sale, on a best efforts basis, by the Company of the Shares to the Investors. The Company shall pay to the Placement Agent a cash fee of 4.0% of the gross proceeds received by the Company from the sale of the Shares as set forth on the cover page of the Prospectus.

2. Delivery and Payment. At 10:00 a.m., Chicago time, on December 22, 1998, or at such other time on such other date or dates as may be agreed upon by the Company and the Placement Agent (each such date is hereinafter referred to as

a "Closing Date"), each of the Investors purchasing Shares on such Closing Date will deposit, by wire transfer of immediately available funds, an amount equal to the Public Offering Price per Share as shown on the cover page of the Prospectus multiplied by the number of Shares purchased by it into an account designated by the Company, and the Company shall deliver the Shares to the Investors. The closing with respect to any such purchase (each a "Closing") shall take place at the offices of Freshman, Marantz, Orlanski, Cooper & Klein, 9100 Wilshire Boulevard, 8th Floor, Beverly Hills, California 90212. All actions taken at any Closing shall be deemed to have occurred simultaneously. Certificates evidencing the Shares shall be in definitive form and shall be registered in such names and in such denominations as the Placement Agent shall request by written notice to the Company. For the purpose of expediting the checking and packaging of certificates for the Shares, the Company agrees to make such certificates available for inspection at least 24 hours prior to delivery to the Investors.

3. Representations and Warranties of the Company. The Company represents and warrants and covenants to the Placement Agent that:

(a) The Company meets the requirements for use of Form S-3 under the Securities Act of 1933, as amended (the "Act"), and the rules and regulations (collectively referred to as the "Rules and Regulations") of the Securities and Exchange Commission (the "Commission") thereunder. A registration statement (Registration No. 333-34137) on Form S-3 relating to the Shares, including a form of prospectus relating to the Shares and such amendments to such registration statement as may have been required to the date of this Agreement, has been prepared by the Company, under the provisions of the Act and the Rules and Regulations, and has been filed with the Commission. The Commission has not issued any order preventing or suspending the effectiveness of such registration statement or the use of the Prospectus or Preliminary Prospectus (as defined herein), if any, and no proceeding for that purpose has been instituted or, to the knowledge of the Company, threatened by the Commission. The term "Preliminary Prospectus" as used herein means a preliminary prospectus relating to the Shares as contemplated by Rule 430 or Rule 430A ("Rule 430A") of the Rules and Regulations included at any time as part of the registration statement. Copies of such registration statement, each Preliminary Prospectus (if any), the Prospectus and any amendment or supplement and all documents incorporated by reference therein that were filed with the Commission on or prior to the date of this Agreement have been delivered to the Placement Agent. A final prospectus relating to the Shares containing information permitted to be omitted at the time of effectiveness by Rule 430A will be filed by the Company with the Commission in accordance with Rule 424(b) of the Rules and Regulations promptly after execution and delivery of this Agreement. The term "Registration Statement" means the registration statement as amended at the time it became effective, including all material incorporated by reference therein

and any information deemed to be included by Rule 430A. The term "Prospectus" means the prospectus relating to the Shares as first filed with the Commission pursuant to Rule 424(b) of the Rules and Regulations, including all material, if any, incorporated by reference therein.

(b) On the date that any Preliminary Prospectus was filed with the Commission, the date the Prospectus is first filed with the Commission pursuant to Rule 424(b) (if required), at all times subsequent to and including each Closing Date and when any post-effective amendment to the Registration Statement becomes effective or any amendment or supplement to the Prospectus is filed with the Commission, the Registration Statement, each Preliminary Prospectus (if any) and the Prospectus (as amended or as supplemented if the Company shall have filed with the Commission any amendment or supplement thereto), including the financial statements included in the Prospectus, did or will comply with all applicable provisions of the Act and the Rules and Regulations and did or will contain all statements required to be stated therein in accordance with the Act and the Rules and Regulations. On the Effective Date and when any post-effective amendment to the Registration Statement becomes effective, no part of the Registration Statement or any such amendment did or will contain any untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary in order to make the statements therein not misleading. At the Effective Date, at the date the Prospectus or any amendment or supplement to the Prospectus is filed with the Commission and at each Closing Date the Prospectus did not or will not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading. The Company has not distributed any offering material in connection with the offering or sale of the Series B Preferred Stock, other than the Registration Statement, the Preliminary Prospectus (if any), the Prospectus, the Company's Annual Report on Form 10-K for the year ended December 31, 1997 (the "Annual Report"), the Company's Quarterly Reports on Form 10-Q for the fiscal quarters ended March 31, 1998, June 30, 1998 and September 30, 1998 (the "Quarterly Reports") and the Company's Current Reports on Form 8-K filed on February 11, 1998, June 3, 1998, June 4, 1998, October 14, 1998, December 8, 1998 and December 18, 1998 (the "Current Reports").

(c) The documents incorporated by reference in the Registration Statement, Preliminary Prospectus (if any) or Prospectus, or any amendment or supplement thereto, when they became or become effective under the Act or were or are filed with the Commission under the Securities Exchange Act of 1934, as amended (the "Exchange Act"), as the case may be, conformed or will conform in all material respects with the requirements of the Act or the Exchange Act, as applicable, and the rules and regulations of the Commission thereunder.

(d) The Company is a corporation duly organized, validly existing and in good standing under the laws of Maryland. The Company has full corporate power and authority to own or lease all the assets owned or leased by it and to conduct its business as described in the Registration Statement, the Preliminary Prospectus (if any) and Prospectus. The Company is duly licensed or qualified to conduct its business and in good standing as a foreign organization in all jurisdictions in which the nature of the activities conducted by it or the character of the assets owned or leased by it makes such licensing or qualification necessary, except where failure to so license or qualify, considering all such cases in the aggregate, would not have a material adverse effect on the business, prospects, properties, condition (financial or otherwise), net worth or results of operations of the Company and its subsidiaries (which term as used herein shall include entities consolidated with the Company for the purposes of generally accepted accounting principles ("GAAP")), taken as a whole. Complete and correct copies of the articles or certificate of incorporation and of the bylaws of the Company and its subsidiaries, and all amendments thereto have been delivered to the Placement Agent, and no changes therein will be made subsequent to the date hereof and prior to any Closing Date, except that Articles Supplementary to the Corporation's charter (the "Articles Supplementary") will be filed with the State Department of Assessments and Taxation of Maryland in order to designate and reclassify the Series B Preferred Stock.

(e) Each "significant subsidiary" (as defined in Section 1-02 of Regulation S-X under the Act) of the Company is duly organized, validly existing and in good standing in the jurisdiction of its incorporation and has full corporate power and authority to conduct all the activities conducted by it, to own or lease all the assets owned or leased by it and to conduct its business as described in the Registration Statement or Prospectus. Each such significant subsidiary is duly licensed or qualified to conduct its business and in good standing as a foreign organization in all jurisdictions in which the nature of the activities conducted by it or the character of the assets owned or leased by it makes such licensing or qualification necessary, except where failure to so license or qualify would not have a material adverse effect on the business, prospects, properties, condition (financial or otherwise), net worth or results of operations of the Company and its subsidiaries, taken as a whole. All the outstanding shares of capital stock of each of such significant subsidiaries have been duly authorized and validly issued, are fully paid and nonassessable, and are wholly owned by the Company directly or through subsidiaries (other than the outstanding common stock of Impac Funding Corporation, which represents 1% of the economic interest in such corporation, and which is owned by Joseph R. Tomkinson, William S. Ashmore and Richard J. Johnson), free and clear of any lien, adverse claim, security interest, equity or other encumbrance, except as described in the Registration Statement or Prospectus. The only

such significant subsidiaries of the company are Impac Funding Corporation, IMH Assets Corp. and Impac Warehouse Lending Group, Inc.

(f) The issued and outstanding shares of capital stock of the Company have been duly authorized, are validly issued, fully paid and nonassessable and are not subject to any preemptive or similar rights. The Company has an authorized, issued and outstanding capitalization as of September 30, 1998 as set forth under the caption "Capitalization" in the Prospectus. The description of the securities of the Company contained in or incorporated by reference into the Registration Statement and the Prospectus is complete and accurate in all respects.

(g) This Agreement been duly authorized and validly executed and delivered by the Company and is a legal, valid and binding agreement of the Company enforceable against the Company in accordance with its terms, subject to the effects of bankruptcy, insolvency, moratorium, fraudulent conveyance and similar laws relating to or affecting creditors' rights generally and by general equitable principles.

(h) The issuance and sale of the Shares hereunder have been duly authorized by the Company, and the Shares, when issued and paid for in accordance with this Agreement, will be duly and validly issued, fully paid and nonassessable and will not be subject to preemptive or similar rights. The holders of the Shares will not be subject to personal liability by reason of being such holders. The Shares, when issued, will conform to the description thereof set forth in the Prospectus.

(i) The financial statements and the related notes and schedules contained in or incorporated by reference into the Registration Statement and the Prospectus present fairly the consolidated financial condition of the Company and its subsidiaries as of the respective dates thereof and the results of operations, stockholders' equity and cash flows at the respective dates and for the respective periods covered thereby, all in conformity with GAAP applied on a consistent basis throughout the entire period involved, except as otherwise disclosed therein. No other financial statements or schedules of the Company, its subsidiaries, or any other entity are required by the Act or the Rules and Regulations to be included in the Registration Statement or the Prospectus. KPMG Peat Marwick LLP (the "Accountants"), who have reported on such financial statements and schedules, are independent accountants with respect to the Company and its subsidiaries as required by the Act and the Rules and Regulations. Such financial statements and the related notes and schedules contained in or incorporated by reference into the Registration Statement and the Prospectus have been prepared in conformity with the requirements of the Act and the Rules and Regulations and present fairly the information presented therein, and the other financial and statistical information

and data included in or incorporated by reference into the Registration Statement and the Prospectus are accurately presented and prepared on a basis consistent with such financial statements and the books and records of the Company and its subsidiaries.

(j) The Company maintains a system of internal accounting controls sufficient to provide reasonable assurance that (i) transactions are executed in accordance with management's general or specific authorization; (ii) transactions are recorded as necessary to permit preparation of financial statements in conformity with GAAP and to maintain accountability for assets; (iii) access to assets is permitted only in accordance with management's general or specific authorization; and (iv) the recorded accountability for assets is compared with existing assets at reasonable intervals and appropriate action is taken with respect to any differences.

(k) Subsequent to the respective dates as of which information is given in the Registration Statement and the Prospectus and prior to each Closing Date, except as set forth in or contemplated by the Registration Statement and the Prospectus, (i) there has not been any change in the capitalization of the Company or its subsidiaries other than non-material changes in the ordinary course of business, or any material adverse change, or any development involving a prospective material adverse change, in the business, prospects, properties, condition (financial or otherwise), net worth or results of operations of the Company or its subsidiaries arising for any reason whatsoever, (ii) the Company and its subsidiaries have not incurred any liabilities or obligations, direct or contingent, nor has the Company or its subsidiaries entered into any transactions not in the ordinary course of business other than pursuant to this Agreement, the Registration Statement and the transactions referred to herein and therein, and (iii) the Company has not paid or declared any dividends or other distributions of any kind on any class of its capital stock.

(l) Any real property and buildings held under lease to the Company or its subsidiaries are held or leased by them under valid, binding and enforceable leases conforming to the description thereof incorporated by reference into the Registration Statement and the Prospectus, with such exceptions as do not materially adversely affect the business, prospects, properties, condition (financial or otherwise), net worth or results of operations of the Company and its subsidiaries, taken as a whole.

(m) The Company is not, and upon the issuance and sale of the Series B Preferred Stock as contemplated herein and the application of the net proceeds therefrom as described in the Prospectus will not be, an "investment company" or an entity "controlled" by an "investment company," as such terms are defined in the Investment Company Act of 1940, as amended (the

"Investment Company Act"), and is not required to be registered under the Investment Company Act.

(n) Except as set forth or referred to in the Registration Statement and the Prospectus, there are no actions, suits or proceedings pending, or to the Company's knowledge, threatened, against or affecting the Company or its subsidiaries or any of their respective officers in their capacity as such, before or by any Federal or state court, commission, regulatory body, administrative agency or other governmental body, domestic or foreign, wherein an unfavorable ruling, decision or finding might materially adversely affect the business, prospects, properties, condition (financial or otherwise), net worth or results of operations of the Company and its subsidiaries, taken as a whole.

(o) Except in each case as would not materially adversely affect the business, prospects, properties, condition (financial or otherwise), net worth or results of operations of the Company and its subsidiaries, taken as a whole, each of the Company and each subsidiary has (i) all governmental or regulatory licenses, permits, certificates, consents, orders, approvals and other authorizations necessary to carry on its business as contemplated in the Prospectus (or if the Prospectus is not in existence, the most recent Preliminary Prospectus, if any), (ii) no reason to believe that any governmental body or agency is considering limiting, suspending or revoking any such license, permit, certificate, consent, order, approval or other authorization, (iii) complied with all laws, statutes, ordinances, rules, regulations and orders applicable to either it or its business, (iv) not received any notice to the effect that, or otherwise been advised that, it is not in compliance with any such law, statute, ordinance, rule, regulation or order, and is not aware of any existing circumstances which are likely to result in material violations of any of the foregoing, (v) good and marketable title to all of the properties and assets described in the Prospectus as owned by it, free and clear of all liens, charges, encumbrances or restrictions, (vi) peaceful and undisturbed possession under all material leases to which it is party as lessee, and (vii) performed all its obligations required to be performed, and is not in default under, any indenture, mortgage, deed of trust, voting trust agreement, loan agreement, bond, debenture, note agreement, lease, contract or other agreement or instrument (collectively, the "contract or other agreements") to which it is a party or by which its property is bound or affected, except as otherwise set forth in the Registration Statement and the Prospectus, and, to the Company's knowledge, no other party under any contract or other agreement to which it is a party is in default in any respect thereunder. Neither the Company nor its subsidiaries are in violation of any provision of their respective organizational or governing documents.

(p) The Company has all corporate power and authority to enter into this Agreement and to carry out the provisions and conditions hereof, and all

consents, authorizations, approvals and orders of any court, government, or governmental agency or body having jurisdiction over the Company or its properties or operations required in connection herewith have been obtained, except such as may be required under state securities or Blue Sky laws or the by-laws and rules of the National Association of Securities Dealers, Inc. (the "NASD").

(q) Neither the execution of this Agreement, nor the issuance, offering or sale of the Shares, nor the consummation of any of the transactions contemplated herein, nor the compliance by the Company with the terms and provisions hereof will conflict with, result in a breach of any of the terms and provisions of, constitute a default under, or result in the creation or imposition of any lien, charge or encumbrance upon, any property or assets of the Company or its subsidiaries pursuant to the terms of any contract or other agreement to which the Company or its subsidiaries may be bound or to which any of the property or assets of the Company or its subsidiaries is subject, nor will such action result in any violation of the provisions of the Company's or any subsidiaries' organizational or governing documents or any statute or any order, rule or regulation applicable to the Company or its subsidiaries of any court or Federal, state or other regulatory authority or other government body having jurisdiction over the Company or its subsidiaries, except for such conflicts, breaches, defaults, liens, charges, encumbrances or violations which will not have a material adverse effect on business, prospects, properties, condition (financial or otherwise), net worth or results of operations of the Company and its subsidiaries, taken as a whole.

(r) There is no document or contract of a character required to be described in the Registration Statement or the Prospectus or to be filed as an exhibit to the Registration Statement which is not described or filed as required.

(s) The Company and its directors, officers or controlling persons have not taken, directly or indirectly, any action intended, or which might reasonably be expected, to cause or result, under the Act or otherwise, in, or which has constituted, stabilization or manipulation of the price of any security of the Company to facilitate the sale or resale of the Series B Preferred Stock.

(t) Except as described in the Registration Statement and as have been waived by all such holders, no holder of securities of the Company has or will have rights to the registration of any securities of the Company as a result of the filing of the Prospectus or Preliminary Prospectus (if any).

(u) Neither the Company nor any of its subsidiaries are involved in any material labor dispute nor is any such dispute threatened.

(v) None of the Company or any of its subsidiaries or any of their respective employees or agents have made any payment of funds of the Company or its subsidiaries, or received or retained any such funds in violation of any law, rule or regulation where such actions are of a character required to be disclosed in the Prospectus.

(w) The Company maintains insurance of the types and in the amounts generally deemed adequate for its business, including, but not limited to, insurance covering all real and personal property owned or leased by the Company and its subsidiaries against theft, damage, destruction, acts of vandalism and all other risks customarily insured against, all of which insurance is in full force and effect.

(x) The Company, either directly or indirectly through its subsidiaries, has sufficient patent rights, trademarks, trade names, copyrights, licenses, approvals and governmental authorizations to conduct its business as described in the Prospectus; except as described in the Prospectus, the expiration of any patent rights, trademarks, trade names, copyrights, licenses, approvals or governmental authorizations would not have a material adverse effect on the business, prospects, properties, condition (financial or otherwise), net worth or results of operations of the Company and its subsidiaries taken as a whole; and the Company has no knowledge of any material infringement by it of patent rights, trademark, trade name rights, copyrights, licenses, trade secrets or other similar rights of others, and there is no claim being made against the Company or any of its subsidiaries regarding patents, trademark, trade names, copyright, license, trade secrecy or other infringement which could have a material adverse effect on the business, prospects, properties, condition (financial or otherwise), net worth or results of operations of the Company and its subsidiaries, taken as a whole.

(y) Except as would not materially adversely affect the business, prospects, properties, condition (financial or otherwise), net worth or results of operations of the Company and its subsidiaries, taken as a whole, the business, operations and properties of the Company and its subsidiaries have been and are being conducted in compliance with all applicable laws, ordinances, rules, regulations, licenses, permits, approvals, plans, authorizations or requirements relating to occupational safety and health, or pollution, or protection of health or the environment (including, without limitation, those relating to emissions, discharges, releases or threatened releases of pollutants, contaminants or hazardous or toxic substances, materials or wastes into ambient air, surface water, groundwater or land, or relating to the manufacture, processing, distribution, use, treatment, storage, disposal, transport or handling of chemical substances, pollutants, contaminants or hazardous or toxic substances, materials or wastes, whether solid, gaseous or liquid in nature) of any governmental department, commission, board, bureau, agency or

instrumentality of the United States, any state or political subdivision thereof, or any foreign jurisdiction, and all applicable judicial or administrative agency or regulatory decrees, awards, judgments and orders relating thereto, and neither the Company nor its subsidiaries has received any notice from any governmental instrumentality or any third party alleging any violation thereof or liability thereunder (including, without limitation, liability for costs of investigating or remediating sites containing hazardous substances and/or damages to natural resources).

(z) The Company and its qualified real estate investment trust subsidiaries are organized in conformity with the requirements for qualification as, and operate in a manner that qualifies them as, real estate investment trusts under the Internal Revenue Code of 1986, as amended (the "Code"), and the rules and regulations thereunder and will be so qualified immediately after consummation of the transactions contemplated by this Agreement.

4. Agreements of the Company. The Company covenants and agrees with the Placement Agent as follows:

(a) The Company, during such period as a prospectus relating to the Shares would be required by law to be delivered in connection with sales of the Shares by an underwriter or dealer, (i) will not file any amendment or supplement to the Registration Statement or the Prospectus, unless a copy thereof shall first have been submitted to the Placement Agent within a reasonable period of time prior to the filing thereof and the Placement Agent shall not have objected thereto in good faith, (ii) will furnish to the Agent at the time of filing thereof a copy of any document that upon filing is deemed to be incorporated by reference into the Registration Statement or Prospectus, and (iii) will cause each amendment or supplement to the Prospectus to be filed with the Commission as required pursuant to the applicable paragraph of Rule 424(b) of the Rules and Regulations or, in the case of any document to be incorporated therein by reference, to be filed with the Commission as required pursuant to the Exchange Act, within the time period prescribed.

(b) The Company will notify the Placement Agent promptly, and will confirm such advice in writing, (i) of any request by any securities or other governmental authority (including, without limitation, the Commission) of any jurisdiction for amendments or supplements to the Registration Statement or the Prospectus or for additional information, (ii) of the issuance by any securities or other governmental authority (including, without limitation, the Commission) of any jurisdiction of any stop order suspending the effectiveness of the Registration Statement or the initiation of any proceedings for that purpose or the threat thereof, (iii) of the happening of any event during the period mentioned in Section 4(a) that in the judgment of the Company makes any statement made in the Registration Statement or the Prospectus untrue or

that requires the making of any changes in the Registration Statement or the Prospectus in order to make the statements therein, in light of the circumstances in which they are made, not misleading and (iv) of receipt by the Company or any representative or attorney of the Company of any other communication from any securities or other governmental authority (including, without limitation, the Commission) of any jurisdiction relating to any of the Registration Statement, any Preliminary Prospectus or the Prospectus. If at any time any securities or other governmental authority (including, without limitation, the Commission) of any jurisdiction shall issue any order suspending the effectiveness of the Registration Statement, the Company will promptly use best efforts to obtain the withdrawal of such order.

(c) If, at any time when a Prospectus relating to the Shares is required to be delivered under the Act, any event occurs as a result of which the Prospectus, as then amended or supplemented, would, in the judgment of counsel to the Company or counsel to the Placement Agent, include any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading, or the Registration Statement, as then amended or supplemented, would, in the judgment of counsel to the Company or counsel to the Placement Agent, include any untrue statement of a material fact or omit to state a material fact necessary to make the statements therein not misleading, or if for any other reason it is necessary, in the judgment of counsel to the Company or counsel to the Placement Agent, at any time to amend or supplement the Prospectus or the Registration Statement to comply with the Act or the Rules and Regulations, the Company will promptly notify the Placement Agent and, subject to Section 4(a) hereof, will promptly prepare and file with the Commission, at the Company's expense, an amendment to the Registration Statement or an amendment or supplement to the Prospectus that corrects such statement or omission or effects such compliance and will deliver to the Placement Agent, without charge, such number of copies thereof as the Placement Agent may reasonably request. The Company consents to the use of the Prospectus or any amendment or supplement thereto by the Placement Agent.

(d) The Company will furnish to the Placement Agent and its counsel, without charge, (i) two copies of the registration statement described in Section 3(a) hereof, including financial statements and schedules, and all exhibits thereto and (ii) so long as a prospectus relating to the Shares is required to be delivered under the Act, as many copies of each Preliminary Prospectus (if any) or the Prospectus or any amendment or supplement thereto as the Placement Agent may reasonably request.

(e) The Company will comply with all the undertakings contained in the Registration Statement.

(f) Prior to the sale of the Shares to the Investors, the Company will cooperate with the Placement Agent and its counsel in connection with the registration or qualification of the Shares for offer and sale under the state securities or Blue Sky laws of such jurisdictions as the Placement Agent may request; provided, that in no event shall the Company be obligated to qualify to do business in any jurisdiction where it is not now so qualified or to take any action which would subject it to general service of process in any jurisdiction where it is not now so subject.

(g) During the period of three years commencing on the date hereof, the Company will furnish to the Placement Agent copies of such financial statements and other periodic and special reports as the Company may from time to time distribute generally to the holders of any class of its capital stock, and will furnish to the Placement Agent a copy of each annual or other report it shall be required to file with the Commission.

(h) The Company will make generally available to holders of its securities, as soon as may be practicable, but in no event later than the last day of the fifteenth full calendar month following the current calendar quarter, a consolidated earnings statement (which need not be audited but shall be in reasonable detail) for a period of 12 months ended commencing after the Effective Date, and satisfying the provisions of Section 11(a) of the Act (including Rule 158 of the Rules and Regulations).

(i) The Company will not at any time, directly or indirectly, take any action intended, or which might reasonably be expected, to cause or result in, or which will constitute, stabilization of the price of the Shares to facilitate the sale or resale of any of the Shares.

(j) The Company will apply the net proceeds from the offering and sale of the Shares in the manner set forth in the Prospectus under the caption "Use of Proceeds."

5. Expenses. Whether or not the transactions contemplated by this Agreement are consummated or this Agreement is terminated, the Company will pay all costs and expenses incident to the performance of the obligations of the Company under this Agreement, including but not limited to costs and expenses of or relating to (a) the preparation, printing and filing of the Registration Statement and exhibits thereto, each Preliminary Prospectus (if any), the Prospectus and any amendment or supplement to the Prospectus, including all fees, disbursements and other charges of counsel to the Company, (b) the preparation and delivery of certificates representing the Shares, (c) furnishing (including costs of shipping and mailing) such copies of the Registration Statement, the Prospectus and any Preliminary Prospectus, and all amendments and supplements to the Prospectus, as may be requested for use in connection with the direct placement of the Shares, (d) the listing, if any, of the

Shares on the American Stock Exchange ("AMEX"), (e) any filings required to be made by the Placement Agent with the NASD and the registration or qualification of the Shares for offer and sale under the securities or Blue Sky laws of such jurisdictions designated pursuant to Section 4(f), including the reasonable fees, disbursements and other charges of counsel to the Placement Agent in connection therewith, and the preparation and printing of preliminary, supplemental and final Blue Sky memoranda, and (f) fees, disbursements and other charges of counsel to the Company. The Company shall reimburse the Placement Agent for its travel, legal and other out-of-pocket expenses incurred in connection with the engagement hereunder, up to a maximum of \$30,000.

6. Conditions of the Obligations of the Placement Agent. The obligations of the Placement Agent hereunder are subject to the following conditions:

(a) (i) No stop order suspending the effectiveness of the Registration Statement shall have been issued, and no proceeding for that purpose shall be pending or threatened by any securities or other governmental authority (including, without limitation, the Commission); (ii) no order suspending the effectiveness of the Registration Statement or the qualification or registration of the Shares under the securities or Blue Sky laws of any jurisdiction shall be in effect and no proceeding for such purpose shall be pending before or threatened or contemplated by any securities or other governmental authority; (iii) any request for additional information on the part of the staff of any securities or other governmental authority (including, without limitation, the Commission) shall have been complied with, to the Company's knowledge, to the satisfaction of the staff of the Commission or such authority; and (iv) after the date hereof no amendment or supplement to the Registration Statement or the Prospectus shall have been filed unless a copy thereof was first submitted to the Placement Agent and the Placement Agent did not object thereto in good faith..

(b) Since the respective dates as of which information is given in the Registration Statement and the Prospectus, neither the Company nor any of its subsidiaries shall have sustained any material loss or interference with its business or properties from fire, explosion, flood or other casualty, whether or not covered by insurance, or from any labor dispute or any court or legislative or other governmental action, order or decree, which is not set forth in the Registration Statement and the Prospectus, if in the sole judgment of the Placement Agent any such development makes it impracticable or inadvisable to consummate the sale and delivery of the Shares to Investors at the offering price.

(c) Each of the representations and warranties of the Company contained herein shall be true and correct at each Closing Date, as if made on such date, and all covenants and agreements herein contained to be performed

on the part of the Company and all conditions herein contained to be fulfilled or complied with by the Company at or prior to such Closing Date shall have been duly performed, fulfilled or complied with.

(d) The Placement Agent shall have received an opinion, dated each Closing Date, of Freshman, Marantz, Orlanski, Cooper & Klein ("Freshman, Marantz"), counsel to the Company, in form and substance satisfactory to the Placement Agent, to the effect that:

(i) the Company and each "significant subsidiary" (as such term is defined in Rule 1-02 of Regulation S-X under the Act) of the Company have been duly incorporated and are validly existing in good standing under the laws of their jurisdictions of incorporation and are duly qualified to transact business as foreign corporations and are in good standing under the laws of all other jurisdictions where the ownership or leasing of their properties or the conduct of their businesses requires such qualification, except where the failure to be so qualified or in good standing would not have a material adverse effect on the business, prospects, properties, condition (financial or otherwise), net worth or results of operations of the Company and the significant subsidiaries, taken as a whole;

(ii) the Company and each such significant subsidiary have full power and authority to own or lease all the assets owned or leased by them and to conduct their businesses as described in the Registration Statement and the Prospectus; and the Company has all corporate power and authority to enter into this Agreement, and to carry out the provisions and conditions hereof;

(iii) the Company had an authorized capitalization as of September 30, 1998 as set forth under the caption "Capitalization" in the Prospectus; all of the issued shares of capital stock of the Company have been duly authorized and validly issued, and are fully paid and nonassessable and free of preemptive or other similar rights;

(iv) the Articles Supplementary have been duly authorized, approved and adopted by all necessary action on the part of the Company. The Company has filed the Articles Supplementary with the State of Maryland and has made any other required filings with the State of Maryland necessary to create the Series B Preferred Stock.

(v) the issuance and sale of (A) the Shares to be purchased on such Closing Date and (B) shares of common stock, par value \$.01 per share, of the Company (the "Common Stock") reserved for issuance upon conversion or redemption of the Shares (the "Conversion Shares")

have been duly authorized by the Company, and such Shares and Conversion Shares, when issued and paid for in accordance with this Agreement or upon conversion, as applicable, will be duly and validly issued, fully paid and nonassessable and will not be subject to preemptive or other similar rights; the holders of such Shares will not be subject to personal liability by reason of being such holders, except to the extent that (A) a director is held liable under Section 2-312(a) of the Maryland General Corporation Law (the "MGCL") for an unlawful distribution to the stockholder, who accepted the distribution knowing the distribution was made in violation of the Company's charter or Section 2-311 of the MGCL, or (B) liability is imposed on the stockholder by law in connection with, and to the extent of, a distribution made pursuant to a voluntary or involuntary dissolution of the Company; such Shares, when issued, will conform to the description thereof set forth in the Prospectus; and such Shares and Conversion Shares are the subject of an effective registration statement permitting their sale in the manner contemplated by this Agreement or upon conversion of the Conversion Shares;

(vi) the execution and delivery of this Agreement have been duly authorized by all necessary action of the Company, and this Agreement has been duly executed and delivered by the Company and is the legal, valid and binding agreement of the Company, enforceable against the Company in accordance with its terms, subject, as to enforcement, to bankruptcy, insolvency, reorganization, moratorium and other laws of general applicability relating to or affecting creditors' rights and to general principles of equity;

(vii) the description in the Registration Statement and Prospectus of statutes, legal and governmental proceedings, contracts and other documents are accurate in all material respects and fairly present the information required to be shown, and, to such counsel's knowledge, no legal or governmental proceedings are pending to which the Company or the significant subsidiaries or any of their respective officers or to which the property of the Company or the significant subsidiaries is subject that are required to be described in the Registration Statement or the Prospectus and are not described therein, and, to such counsel's knowledge, no such proceedings have been threatened against the Company or the significant subsidiaries or with respect to any of their respective assets; and, to the best of such counsel's knowledge, no contract or other document is required to be described in the Registration Statement or the Prospectus or to be filed as an exhibit to the Registration Statement that is not described therein or filed as required;

(viii) the Registration Statement is effective under the Act, and, to such counsel's knowledge, no stop order suspending the effectiveness of the Registration Statement or any post-effective amendment thereto and no order directed at any amendment or supplement thereto has been issued, and no proceedings for that purpose have been instituted or threatened or are contemplated by the Commission;

(ix) the Company is not, and upon the issuance and sale of the Shares and the application of the net proceeds therefrom as described in the Prospectus will not be, an "investment company" as such term is defined under the Investment Company Act, and is not required to be registered under the Investment Company Act;

(x) commencing with the Company's taxable year ended December 31, 1995, the Company has been organized in conformity with the requirements for qualification as a "real estate investment trust," and its proposed method of operation has enabled and will enable it to meet the requirements for qualification and taxation as a "real estate investment trust" under the Code. The information presented in the Prospectus under the caption "Federal Income Tax Considerations," to the extent it constitutes matters of law or legal conclusions, is accurate in all material respects.

(xi) the Registration Statement, when it became effective, and the Prospectus (in each case, not including the financial statements, schedules and other financial and statistical information contained or incorporated by reference therein, as to which such counsel need express no opinion), on the date of filing thereof with the Commission, complied as to form in all material respects with the applicable requirements of the Act and the Rules and Regulations; and the documents incorporated by reference in the Registration Statement or Prospectus (in each case, not including the financial statements, schedules and other financial and statistical information contained or incorporated by reference therein, as to which such counsel need express no opinion), when filed with the Commission, complied as to form in all material respects with the requirements of the Act or the Exchange Act, as applicable, and the rules and regulations of the Commission thereunder;

(xii) neither the issuance, offering and sale of the Shares pursuant hereto nor the compliance by the Company with the other provisions of this Agreement require the consent, approval, authorization, registration or qualification of or with any governmental authority, except such as have been obtained (it being understood that

such counsel need express no opinion with respect to state securities or Blue Sky Laws or the bylaws and rules of the NASD);

(xiii) neither the execution or delivery of this Agreement, nor the offering, issuance or sale of the Shares or the Conversion Shares, nor the compliance by the Company with the terms and provisions hereof or of the Articles Supplementary will conflict with, or result in a breach or violation of, any of the terms and provisions of, or constitute a default under, or result in the creation or imposition of any lien, charge or encumbrance upon any property or assets of the Company or of the significant subsidiaries pursuant to the terms of, (A) any material contract or other agreement known to such counsel to which the Company or any subsidiary is a party or by which the Company or any significant subsidiary or any of their respective properties or assets are subject, (B) the organizational or governing documents of the Company or any subsidiary, or (C) any judgment, decree or order of any court or other governmental authority or any arbitrator known to such counsel and applicable to the Company or any significant subsidiary, except such as would not materially adversely affect the business, prospects, properties, condition (financial or otherwise), net worth or results of operations of the Company and the significant subsidiaries, taken as a whole;

(xiv) The initial purchasers of the Shares in accordance with the terms hereof shall not be subject to the limitations set forth in Section 7.1 of the charter of the Company. The initial purchase of the Shares in accordance with the terms hereof shall not cause any initial purchaser thereof to be deemed to be an "Acquiring Person" as defined in the Company's Rights Agreement dated October 7, 1998, as amended December 17, 1998.

Freshman, Marantz shall also state that in the course of the preparation of the Registration Statement and the Prospectus, such counsel has participated in conferences with officers and representatives of the Company and with the Accountants, at which conferences the contents of the Registration Statement and the Prospectus were discussed and, on the basis of the foregoing, that they have no reason to believe that the Registration Statement, as of its effective date and as of the date of such opinion, contained or contains any untrue statement of a material fact or omitted or omits to state any material fact required to be stated therein or necessary to make the statements therein not misleading or that the Prospectus, as of its filing date and the date of such opinion, contained or contains any untrue statement of a material fact or omitted or omits to state a material fact required to be stated therein or necessary to make the statements therein, in the light of the

circumstances under which they were made, not misleading (other than financial statements, schedules and other financial and statistical data included therein, as to which such counsel need express no view).

In rendering any such opinion, Freshman, Marantz may rely, as to matters of fact, to the extent such counsel deems proper, on certificates of responsible officers of the Company and public officials and, as to matters involving the application of laws of any jurisdictions in which such counsel are not admitted to practice, to the extent satisfactory in form and substance to counsel for the Placement Agent, upon the opinion of Brown & Wood LLP. The foregoing opinion shall also state that the Placement Agent is justified in relying upon such opinion of Brown & Wood LLP, and copies of such opinion shall be delivered to the Placement Agent and its counsel.

References to the Registration Statement and the Prospectus in this paragraph (f) shall include any amendment or supplement thereto at the date of such opinion.

(e) Concurrently with the execution and delivery of this Agreement, the Accountants shall have furnished to the Placement Agent a letter, dated the date of its delivery (the "Original Letter"), addressed to the Placement Agent and in form and substance satisfactory to the Placement Agent. At each Closing Date, the Accountants shall have furnished to the Placement Agent a letter, dated the date of its delivery, which shall confirm, on the basis of a review in accordance with the procedures set forth in the Original Letter, that nothing has come to their attention during the period from the date of the Original Letter to a date (specified in the letter) not more than three days prior to such Closing Date which would require any change in the Original Letter if it were required to be dated and delivered at such Closing Date.

(f) At each Closing Date, there shall be furnished to the Placement Agent a certificate, dated the date of its delivery, signed by the Chairman of the Board, the President or a Vice President and by the principal financial or accounting officer of the Company, to the effect that:

(i) each of the representations and warranties of the Company contained in this Agreement were, when originally made, and are, at the time such certificate is delivered, true and correct in all material respects; and

(ii) each of the covenants required herein to be performed by the Company on or prior to the date of such certificate has been duly, timely and fully performed and each condition herein required to be

complied with by the Company on or prior to the delivery of such certificate has been duly, timely and fully complied with.

(g) The Shares shall be qualified for sale in such states as the Placement Agent may reasonably request, and each such qualification shall be in effect and not subject to any stop order or other proceeding on such Closing Date.

(h) The Placement Agent shall not have advised the Company that the Registration Statement or Prospectus, or any amendment or supplement thereto, contains an untrue statement of fact that in the Placement Agent's opinion is material, or omits to state a fact that in the Placement Agent's opinion is material and is required to be stated therein or is necessary to make the statements therein not misleading.

(i) The Company shall have furnished to the Placement Agent such certificates, in addition to those specifically mentioned herein, as the Placement Agent may have reasonably requested as to the accuracy and completeness at such Closing Date of any statement in the Registration Statement or the Prospectus, as to the accuracy at such Closing Date of the representations and warranties of the Company, as to the performance by the Company of its obligations hereunder, or as to the fulfillment of the conditions concurrent and precedent to the obligations hereunder of the Placement Agent.

(j) The Company and the initial purchasers of the Shares shall have entered into a Stock Purchase Agreement substantially in the form of Exhibit A hereto.

7. Indemnification.

(a) The Company shall indemnify and hold harmless the Placement Agent, the directors, officers, employees and agents of the Placement Agent and each person, if any, who controls the Placement Agent within the meaning of Section 15 of the Act or Section 20 of the Exchange Act, from and against any and all losses, claims, liabilities, expenses and damages, joint or several (including any and all investigative, legal and other expenses reasonably incurred in connection with, and any amount paid in settlement of, any action, suit or proceeding or any claim asserted), to which it, or any of them, may become subject under the Act or other Federal or state statutory law or regulation, at common law or otherwise, insofar as such losses, claims, liabilities, expenses or damages arise out of or are based on (i) any untrue statement or alleged untrue statement made by the Company in Section 3 of this Agreement, (ii) any untrue statement or alleged untrue statement of any material fact contained in (A) any Preliminary Prospectus, the Registration Statement or the Prospectus or any amendment or supplement to the

Registration Statement or the Prospectus, (B) any document incorporated by reference into the Registration Statement and (C) any application or other document, or any amendment or supplement thereto, executed by the Company based upon written information furnished by or on behalf of the Company filed in any jurisdiction in order to qualify the Shares under the securities or Blue Sky laws thereof or filed with the Commission or any securities association or securities exchange (each, an "Application") or (iii) the omission or alleged omission to state in any Preliminary Prospectus, the Registration Statement or the Prospectus or any supplement to the Registration Statement or the Prospectus or any document incorporated by reference into the Registration Statement or any Application a material fact required to be stated therein or necessary to make the statements therein, in light of the circumstances in which they were made, not misleading; provided, however, that the Company will not be liable to the extent that such loss, claim, liability, expense or damage arises from the sale of the Shares pursuant to this Agreement and is based solely on an untrue statement or omission or alleged untrue statement or omission made in reliance on and in conformity with information relating to the Placement Agent furnished in writing to the Company by the Placement Agent expressly for inclusion in the Registration Statement, any Preliminary Prospectus or the Prospectus. This indemnity agreement will be in addition to any liability which the Company may otherwise have.

In addition to its other obligations under this paragraph (a), the Company agrees that, as an interim measure during the pendency of any claim, action, investigation, inquiry or other proceeding arising out of or based upon any statement or omission, or any alleged statement or omission, or any inaccuracy in the representations and warranties of the Company in this Agreement or failure to perform its obligations in this Agreement, all as described in this paragraph (a), it will reimburse the Placement Agent on a quarterly basis for all reasonable legal or other expenses incurred in connection with investigating or defending any such claim, action, investigation, inquiry or other proceeding, notwithstanding the absence of a judicial determination as to the propriety and enforceability of the Company's obligation, to reimburse the Placement Agent for such expenses and the possibility that such payments might later be held to have been improper by a court of competent jurisdiction. To the extent that any such interim reimbursement payment is so held to have been improper, the Placement Agent shall promptly return it to the Company together with interest, compounded daily, determined on the basis of the Prime Rate (or other commercial lending rate for borrowers of the highest credit standing) published from time to time in The Wall Street Journal (the "Prime Rate"). Any such interim reimbursement payments which are not made to the Placement Agent within 30 days of a request for reimbursement shall bear interest at the Prime Rate from the date of such request.

(b) The Placement Agent will indemnify and hold harmless the Company, each person, if any, who controls the Company within the meaning of Section 15 of the Act or Section 20 of the Exchange Act, each director of the Company and each officer of the Company who signs the Registration Statement to the same extent as the foregoing indemnity from the Company to the Placement Agent, but only insofar as losses, claims, liabilities, expenses or damages arise out of or are based on any untrue statement or omission or alleged untrue statement or omission made in reliance on and in conformity with information relating to the Placement Agent furnished in writing to the Company by the Placement Agent expressly for use in the Registration Statement, any Preliminary Prospectus or the Prospectus. This indemnity agreement will be in addition to any liability that the Placement Agent might otherwise have; provided, however, that in no event shall the Placement Agent be liable or responsible for any amount in excess of the total commissions received by the Placement Agent.

(c) Any party that proposes to assert the right to be indemnified under this Section 7 will, promptly after receipt of notice of commencement of any action against such party in respect of which a claim is to be made against an indemnifying party or parties under this Section 7, notify each such indemnifying party of the commencement of such action, enclosing a copy of all papers served, but the omission so to notify such indemnifying party will not relieve it from any liability that it may have to any indemnified party under the foregoing provisions of this Section 7 unless, and only to the extent that, such omission results in the forfeiture of substantive rights or defenses by, or otherwise prejudices, the indemnifying party. If any such action is brought against any indemnified party and it notifies the indemnifying party of its commencement, the indemnifying party will be entitled to participate in and, to the extent that it elects by delivering written notice to the indemnified party promptly after receiving notice of the commencement of the action from the indemnified party, jointly with any other indemnifying party similarly notified, to assume the defense of the action, with counsel satisfactory to the indemnified party, and after notice from the indemnifying party to the indemnified party of its election to assume the defense, the indemnifying party will not be liable to the indemnified party for any legal or other expenses except as provided below and except for the reasonable costs of investigation incurred by the indemnified party in connection with the defense. The indemnified party will have the right to employ its own counsel in any such action, but the fees, expenses and other charges of such counsel will be at the expense of such indemnified party unless (i) the employment of counsel by the indemnified party has been authorized in writing by the indemnifying party, (ii) the indemnified party has reasonably concluded (based on advice of counsel) that a conflict exists (based on advice of counsel to the indemnified party) between the indemnified party and the indemnifying party that would prevent the counsel

selected by the indemnifying party from representing the indemnified party (in which case the indemnifying party will not have the right to direct the defense of such action on behalf of the indemnified party) or (iii) the indemnifying party has not in fact employed counsel to assume the defense of such action within a reasonable time after receiving notice of the commencement of the action, in each of which cases the reasonable fees, disbursements and other charges of counsel will be at the expense of the indemnifying party or parties. It is understood that the indemnifying party or parties shall not, in connection with any proceeding or related proceedings in the same jurisdiction, be liable for the reasonable fees, disbursements and other charges of more than one separate firm admitted to practice in such jurisdiction at any one time for all such indemnified party or parties. All such fees, disbursements and other charges will be reimbursed by the indemnifying party promptly as they are incurred. The Company will not, without the prior written consent of the Placement Agent, settle or compromise or consent to the entry of any judgment in any pending or threatened claim, action, suit or proceeding in respect of which indemnification has been sought hereunder (whether or not the Placement Agent or any person who controls the Placement Agent within the meaning of Section 15 of the Act or Section 20 of the Exchange Act is a party to such claim, action, suit or proceeding), unless such settlement, compromise or consent includes an unconditional release of the Placement Agent and each such controlling person from all liability arising out of such claim, action, suit or proceeding. An indemnifying party will not be liable for any settlement of any action or claim effected without its written consent (which consent will not be unreasonably withheld).

(d) In order to provide for just and equitable contribution in circumstances in which the indemnification provided for in the foregoing paragraphs of this Section 7 is applicable in accordance with its terms but for any reason is held to be unavailable from the Company or the Placement Agent, the Company and the Placement Agent will contribute to the total losses, claims, liabilities, expenses and damages (including any investigative, legal and other expenses reasonably incurred in connection with, and any amount paid in settlement of, any action, suit or proceeding or any claim asserted, but after deducting any contribution received by the Company from persons other than the Placement Agent such as persons who control the Company within the meaning of the Act or the Exchange Act, officers of the Company who signed the Registration Statement and directors of the Company, who also may be liable for contribution) to which the Company and the Placement Agent may be subject in such proportion as shall be appropriate to reflect the relative benefits received by the Company on the one hand and the Placement Agent on the other. The relative benefits received by the Company on the one hand and the Placement Agent on the other shall be deemed to be in the same proportion as the total net proceeds from the

offering (before deducting Company expenses) received by the Company as set forth in the table on the cover page of the Prospectus bear to the fee received by the Placement Agent hereunder. If, but only if, the allocation provided by the foregoing sentence is not permitted by applicable law, the allocation of contribution shall be made in such proportion as is appropriate to reflect not only the relative benefits referred to in the foregoing sentence but also the relative fault of the Company, on the one hand, and the Placement Agent on the other, with respect to the statements or omissions which resulted in such loss, claim, liability, expense or damage, or action in respect thereof, as well as any other relevant equitable considerations with respect to such offering. Such relative fault shall be determined by reference to whether the untrue or alleged untrue statement of a material fact or omission or alleged omission to state a material fact relates to information supplied by the Company or the Placement Agent, the intent of the parties and their relative knowledge, access to information and opportunity to correct or prevent such statement or omission. The Company and the Placement Agent agree that it would not be just and equitable if contributions pursuant to this Section 7(d) were to be determined by pro rata allocation or by any other method of allocation which does not take into account the equitable considerations referred to herein. The amount paid or payable by an indemnified party as a result of the loss, claim, liability, expense or damage, or action in respect thereof, referred to above in this Section 7(d) shall be deemed to include, for purpose of this Section 7(d), any legal or other expenses reasonably incurred by such indemnified party in connection with investigating or defending any such action or claim. Notwithstanding the provisions of this Section 7(d), the Placement Agent shall not be required to contribute any amount in excess of the fee received by it, and no person found guilty of fraudulent misrepresentation (within the meaning of Section 11(f) of the Act) will be entitled to contribution from any person who was not guilty of such fraudulent misrepresentation. For purposes of this Section 7(d), any person who controls a party to this Agreement within the meaning of the Act or the Exchange Act will have the same rights to contribution as that party, and each officer of the Company who signed the Registration Statement will have the same rights to contribution as the Company, subject in each case to the provisions hereof. Any party entitled to contribution, promptly after receipt of notice of commencement of any action against such party in respect of which a claim for contribution may be made under this Section 7(d), will notify any such party or parties from whom contribution may be sought, but the omission so to notify will not relieve the party or parties from whom contribution may be sought from any other obligation it or they may have under this Section 7(d). No party will be liable for contribution with respect to any action or claim settled without its written consent (which consent will not be unreasonably withheld).

8. Termination.

(a) The obligations of the Placement Agent under this Agreement may be terminated at any time prior to the first Closing Date, by notice to the Company from the Placement Agent, without liability on the part of the Placement Agent to the Company if, prior to delivery and payment for the Shares, in the sole judgment of the Placement Agent (i) any material adverse change, or any development that is reasonably expected to cause a material adverse change, in the business, prospects, properties, condition (financial or otherwise), net worth or results of operations of the Company and its subsidiaries, taken as a whole, has occurred, which in the judgment of the Placement Agent, materially impairs the investment quality of the Shares, (ii) the Company shall have filed, refused or been unable, at or prior to such Closing Date, to perform any agreement on its part to be performed hereunder, (iii) trading in the Common Stock of the Company shall have been suspended by the Commission or by AMEX, (iv) trading in securities generally on the New York Stock Exchange or AMEX shall have been suspended or limited or minimum or maximum prices shall have been generally established on any of such exchanges, or additional material governmental restrictions, not in force on the date of this Agreement, shall have been imposed upon trading in securities generally by any of such exchanges or by order of the Commission or any court or other governmental authority, (v) a general banking moratorium shall have been declared by Federal or New York authorities or (vi) any material adverse change in the financial or securities markets in the United States or any outbreak or material escalation of hostilities or declaration by the United States of a national emergency or war or other calamity or crisis shall have occurred, the effect of any of which is such as to make it, in the sole judgment of the Placement Agent, impracticable or inadvisable to market the Shares on the terms and in the manner contemplated by the Prospectus.

(b) The obligations of the Company under this Agreement (except those specified in Section 10 hereof) may be terminated at any time (i) after December 31, 1998, if the closing of the purchase of at least 1,000,000 shares of Series B Preferred Stock has not occurred, and (ii) after January 31, 1999, if the closing of the purchase of all of the Shares has not occurred.

9. Notices. Notice given pursuant to any of the provisions of this Agreement shall be in writing and, unless otherwise specified, shall be mailed or delivered (a) if to the Company, to 20371 Irvine Avenue, Santa Ana Heights, California, 92707, Attention: General Counsel or (b) if to the Placement Agent, to EVEREN Securities, Inc., 77 West Wacker Drive, Chicago, Illinois, 60601-1994, Attention: Syndicate Department. Any such notice shall be effective only upon receipt. Any notice under Section 7 may be made by facsimile or telephone, but if so made shall be subsequently confirmed in writing.

10. Survival. The respective representations, warranties, agreements, covenants, indemnities and other statements of the Company, its officers and the

Placement Agent set forth in this Agreement or made by or on behalf of them, respectively, pursuant to this Agreement shall remain in full force and effect, regardless of (i) any investigation made by or on behalf of the Company, any of its officers or directors, the Placement Agent or any controlling person referred to in Section 7 hereof and (ii) delivery of and payment for the Shares. The respective agreements, covenants, indemnities and other statements set forth in Sections 5 and 7 hereof shall remain in full force and effect, regardless of any termination or cancellation of this Agreement.

11. Successors. This Agreement shall inure to the benefit of and shall be binding upon the Placement Agent, the Company and their respective successors and legal representatives, and nothing expressed or mentioned in this Agreement is intended or shall be construed to give any other person any legal or equitable right, remedy or claim under or in respect of this Agreement, or any provisions herein contained, this Agreement and all conditions and provisions hereof being intended to be and being for the sole and exclusive benefit of such persons and for the benefit of no other person except that (i) the indemnification and contribution contained in Sections 7(a) and (d) of this Agreement shall also be for the benefit of the directors, officers, employees and agents of the Placement Agent and any person or persons who control the Placement Agent within the meaning of Section 15 of the Act or Section 20 of the Exchange Act and (ii) the indemnification and contribution contained in Sections 7(b) and (d) of this Agreement shall also be for the benefit of the directors and officers of the Company who have signed the Registration Statement and any person or persons who control the Company within the meaning of Section 15 of the Act or Section 20 of the Exchange Act. No Investor shall be deemed a successor because of such purchase.

12. Headings. Section headings in this Agreement are for convenience of reference only, do not constitute a part of this Agreement, and shall not affect its interpretation.

13. Changes. This Agreement may not be modified or amended except pursuant to an instrument in writing signed by the Company and the Placement Agent.

14. Applicable Law; Severability. The validity and interpretations of this Agreement, and the terms and conditions set forth herein, shall be governed by and construed in accordance with the laws of the State of Illinois, without giving effect to any provisions relating to conflicts of laws. Whenever possible each provision and term of this Agreement will be interpreted in a manner to be effective and valid but if any provision or term of this agreement is held to be prohibited or invalid, then such provision or term will be ineffective only to the extent of such prohibition or invalidity, without invalidating or affecting in any manner whatsoever the remainder of such provision or term or the remaining provisions or terms of this Agreement.

15. Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

If the foregoing is in accordance with your understanding of our agreement, kindly sign and return to us the enclosed duplicate hereof, whereupon it will become a binding agreement between the Company and the Placement Agent in accordance with its terms.

Very truly yours,
IMPAC MORTGAGE HOLDINGS, INC.

By: _____
Name: _____
Title: _____

The foregoing Placement Agency Agreement is hereby confirmed and accepted as of the date first above written.

EVEREN SECURITIES, INC.

By: _____
Name: _____
Title: _____

EXHIBIT A
FORM OF STOCK PURCHASE AGREEMENT

See attached.

ARTICLES SUPPLEMENTARY
OF
SERIES B 10.5% CUMULATIVE CONVERTIBLE PREFERRED STOCK
OF
IMPAC MORTGAGE HOLDINGS, INC.

Impac Mortgage Holdings, Inc., a corporation organized and existing under the laws of the State of Maryland (the "Corporation"), hereby certifies to the State Department of Assessments and Taxation of Maryland that:

FIRST: Pursuant to the authority granted to and vested in the Board of

Directors of the Corporation (the "Board of Directors") in accordance with Article VI of the charter of the Corporation, including these Articles Supplementary (the "Charter"), the Board of Directors adopted resolutions reclassifying 1,200,000 shares (the "Shares") of Preferred Stock (as defined in the Charter) as a separate series of stock, Series B 10.5% Cumulative Convertible Preferred Stock, \$.01 par value per share (the "Series B Preferred Stock"), with the preferences, conversion and other rights, voting powers, restrictions, limitations as to dividends or other distributions, qualifications, and terms and conditions of redemption set forth below. Upon any restatement of the Charter, the immediately following heading and Sections 1 through 10 of this Article FIRST shall become Section 6.7 of Article VI of the Charter.

Series B 10.5% Cumulative Convertible Preferred Stock

Section 1. Definitions. Unless the context otherwise requires, the terms defined in this Section 1 shall have, for all purposes of these Articles Supplementary, the meanings herein specified (with terms defined in the singular having comparable meanings when used in the plural).

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

"affiliate" of a person means a person that directly, or indirectly through one or more intermediaries, controls or is controlled by, or is under common control with, the person specified.

"AMEX" shall mean the American Stock Exchange.

"Average Net Worth" for any period means the arithmetic average of the sum of the gross proceeds from any sale of the Corporation's equity securities, before deducting any underwriting discounts and commissions and other expenses (without taking into account any losses incurred in prior periods) computed by taking the daily average of such values during such period.

"Benefit Plan Investor" means (1) an employee benefit plan (as defined by Section 3(3) of ERISA), whether or not it is subject to Title I of ERISA; (2) a plan as described in Section 4975 of the Code; (3) an entity whose underlying assets include the assets of any plan described in clause (1) or (2) by reason of the plan's investment in such entity (including but not limited to an insurance company general account); or (4) an entity that otherwise constitutes a "benefit plan investor" within the meaning of the Plan Asset Regulation.

"Board of Directors" shall mean the Board of Directors of the Corporation or any committee authorized by such Board of Directors to perform any of its responsibilities with respect to the Series B Preferred Stock.

"Business Day" shall mean any day other than a Saturday, Sunday or a day on which state or federally chartered banking institutions in New York, New York are not required to be open.

"Change of Control Transaction" means the occurrence of (i) an acquisition after the date hereof, in one or a series of related transactions, by any individual or legal entity or "group" (as described in Rule 13d-5(b)(1) under the Exchange Act) of more than 50% of the voting securities of the Corporation or all or substantially all of the assets of

the Corporation; (ii) any merger or consolidation of the Corporation with or into another entity, in one or a series of related transactions, unless the holders of the Corporation's securities immediately prior to such transaction continue to hold, immediately after such transaction, at least 50% of the voting securities of the entity that survives such transaction; or (iii) the execution by the Corporation of an agreement to which the Corporation is a party or by which it is bound providing for any of the events set forth above in (i) or (ii).

"Common Stock" shall mean the common stock, \$.01 par value per share, of the Corporation or such shares of the Corporation's capital stock into which outstanding shares of Common Stock shall be reclassified.

"Constituent Person" shall have the meaning set forth in subsection (d) of Section 8.

"Conversion Date" means the date on which a Series B Holder has delivered written notice to the Corporation that such Series B Holder elects to convert Series B Preferred Stock into Common Stock, together with the certificate evidencing such shares of Series B Preferred Stock.

"Conversion Price" shall mean the conversion price per share of Common Stock at which shares of the Series B Preferred Stock is convertible into shares of Common Stock, as such Conversion Price may be adjusted pursuant to Section 8. The initial Conversion Price shall be \$4.95 (equivalent to a conversion rate of 5.050505 shares of Common Stock for each share of Series B Preferred Stock).

"Current Market Price" of publicly traded Common Stock or any other class of shares or other security of the Corporation or any other issuer for any day shall mean the last reported sales price, regular way, on such day or, if no sale takes place on such day, the average of the reported closing bid and asked prices on such day, regular way, in either case as reported on the AMEX or, if such security is not listed or admitted for trading on the AMEX, on the principal national securities exchange on which such security is listed or admitted for trading or, if not listed or admitted for trading on any national securities exchange, on the Nasdaq National Market or, if such security is not quoted on the Nasdaq National Market, the average of the closing bid and asked prices on such day in the over-the-counter market as reported by Nasdaq or, if bid and asked prices for such security on such day shall not have been reported through Nasdaq, the average of the bid and asked prices on such day as furnished by any AMEX member firm regularly making a market in such security and selected for such purpose by the Chief Executive Officer of the Corporation or the Board of Directors or, if such security is not so listed or quoted, as determined in good faith at the sole discretion of the Chief Executive Officer of the Corporation or the Board of Directors, which determination shall be final, conclusive and binding.

"Distribution Payment Date" shall have the meaning set forth in Section 4.

"Distribution Period" shall have the meaning set forth in Section 4.

"Dividend Ratchet Amount" shall mean for any calendar quarter, the aggregate of all distributions (including non-regular dividends such as special capital gain distributions) declared on the number of shares of Common Stock (or portions thereof, without giving effect to the requirements under subsection (c) of Section 8) into which each share of Series B Preferred Stock is then convertible (i.e., an amount equal to the number of shares of Common Stock (or portions thereof, without giving effect to the requirements under subsection (c) of Section 8) into which one share of Series B Preferred Stock is convertible, multiplied by the aggregate of all distributions (including non-regular dividends) declared per share of Common Stock for such quarter).

"Exchange Act" means the Securities Exchange Act of 1934, as amended.

"Fair Market Value" shall mean the fair market value as determined in good faith at the sole discretion of the Chief Executive Officer or the Board of Directors, which determination shall be final, conclusive and binding.

"Incentive Compensation" shall mean the performance based compensation that the Corporation shall be obligated to pay to certain employees of the Corporation pursuant to their employment agreements.

"Issue Date" shall mean the first date on which Series B Preferred Stock is issued and sold.

"Junior Shares" shall have the meaning set forth in Section 3.

"Liquidation Preference" means \$25.00 per share of Series B Preferred Stock, plus accumulated and unpaid distributions (whether or not earned or declared) thereon.

"Net Income" means, at any date of determination, the net income of the Corporation determined in accordance with current tax law before the total Incentive Compensation paid to employees of the Corporation pursuant to their respective employment agreements, the deduction for dividends paid, before any amortization of the Termination Fee paid Imperial Credit Advisors, Inc. and any net operating loss deductions arising from losses in prior periods.

"Non-Electing Share" shall have the meaning set forth in subsection (d) of Section 8.

"Ownership Limitation" means the limitation on ownership of the Corporation's shares (or deemed ownership by virtue of the attribution provisions of the Code) set forth in Article VII, Section 7.1 of the Charter.

"Parity Shares" shall have the meaning set forth in Section 3.

"Person" shall mean an individual, corporation, partnership, estate, trust (including a trust qualified under Section 401(a) or 501(c)(17) of the Code), a portion of a trust permanently set aside for or to be used exclusively for the purposes described in Section 642(c) of the Code, association, private foundation within the meaning of Section 509(a) of the Code, joint stock company or other entity, and also includes a group as that term is used for purposes of Section 13(d)(3) of the Securities Exchange Act of 1934, as amended.

"Plan Asset Regulation" means the plan asset regulation promulgated by the Department of Labor under ERISA at 29 C.F.R. 2510.3-101.

"Plan Assets" means "plan assets" as defined in the Plan Asset Regulation.

"Preferred Stock" shall mean preferred stock, \$.01 par value per share, of the Corporation.

"Record Date" shall have the meaning set forth in Section 4.

"Redemption Price" shall equal \$25.00 per share of Series B Preferred Stock, plus dividends accumulated and unpaid to the redemption date (whether or not declared) without interest, or in the case of redemption pursuant to subsection (f) of Section 5, such other amount referred to therein.

"REIT" shall mean a real estate investment trust under Section 856 of the Code.

"Return on Equity" means return calculated for any quarter by dividing the Corporation's Net Income for such quarter by the Corporation's Average Net Worth for such quarter.

"Series B Holder" means a holder of Series B Preferred Stock.

"Series B Preferred Stock" shall mean the Corporation's Series B 10.5% Cumulative Convertible Preferred Stock, \$.01 par value per share, liquidation preference \$25.00 per share.

"Series B Preferred Stock Redemption Date" shall have the meaning set forth in subsection (g) of Section 5.

"Set apart for payment" shall be deemed to include, without any action other than the following, the recording by the Corporation in its accounting ledgers of any accounting or bookkeeping entry which indicates, pursuant to a declaration of distributions by the Board of Directors, the allocation of funds to be paid on any class or series of shares; provided, however, that if any funds for any class or series of Junior Shares or any Parity Shares are placed in a separate account of the Corporation or delivered to a disbursing, paying or other similar agent, then "set apart for payment" with respect to the Series B Preferred Stock shall mean placing such funds in a separate account or delivering such funds to a disbursing, paying or other similar agent.

"Shares-in-Trust" means shares of the Corporation transferred as set forth in Article VII, Subsection (b) of Section 7.2.1of the Charter.

"Ten Year Average Yield" means the average yield to maturity for actively traded marketable U.S. Treasury fixed interest rate securities (adjusted to constant maturities of 10 years).

"Ten Year U.S. Treasury Rate" for a quarterly period shall mean the arithmetic average of the weekly per annum Ten Year Average Yields published by the Federal Reserve Board during such quarter. In the event that the Federal Reserve Board does not publish a weekly per annum Ten Year Average Yield during any week in a quarter, then the Ten Year U.S. Treasury Rate for such week shall be the weekly per annum Ten Year Average Yields published by any Federal Reserve Bank or by any U.S. Government department or agency selected by the Corporation for such week. In the event that the Corporation determines in good faith that for any reason the Corporation cannot determine the Ten Year U.S. Treasury Rate for any quarter as provided above, then the Ten Year U.S. Treasury Rate for such quarter shall be the arithmetic average of the per annum average yields to maturity based upon the daily closing bids during such quarter for each of the issues of actively traded marketable U.S. Treasury fixed interest rate securities (other than securities which can, at the option of the holder, be surrendered at face value in payment of any federal estate tax) with a final maturity date not less than eight nor more than 12 years from the date of each such quotation, as chosen and for each business day (or less frequently if daily quotations shall not be generally available) in each such quarterly period in New York City to the Corporation by at least three recognized dealers in U.S. Government securities selected by the Corporation.

"Trading Day" shall mean any day on which the securities in question are traded on the AMEX, or if such securities are not listed or admitted for trading on the AMEX, on the principal national securities exchange on which such securities are listed or admitted, or if not listed or admitted for trading on any national securities exchange, on the Nasdaq National Market, or if such securities are not quoted on such Nasdaq National Market, in the applicable securities market in which the securities are traded.

"Transaction" shall have the meaning set forth in subsection (d) of Section 7.

"Transfer Agent" means Boston Equiserve, L.P., Boston, Massachusetts or such other agent or agents of the Corporation as may be designated by the Board of Directors or its designee as the transfer agent for the Series B Preferred Stock.

"Triggering Event" means any one or more of the following events (whatever the reason and whether it shall be voluntary or involuntary or effected by operation of law or pursuant to any judgment, decree or order of any court, or any order, rule or regulation of any administrative or governmental body): (i) the failure of the Common Stock to be listed on AMEX, the New York Stock Exchange or the Nasdaq National Market System for a period of three (3) consecutive Trading Days; (ii) any Common Stock issued upon conversion of Series B Preferred Stock, as a distribution in respect thereof, or upon redemption thereof is not, at the time certificates representing such shares are delivered, listed on each national securities exchange or quotation system upon which the Common Stock is then listed; (iii) the Corporation shall fail for any reason to deliver certificates representing shares of Common Stock required to be issued in lieu of cash dividends on any Distribution Payment Date within the ten (10) days immediately following such Distribution Payment Date; or (iv) the occurrence of any Change of Control Transaction where the aggregate consideration per share of Common Stock, valued (if all or any portion of the consideration is in the form of securities rather than cash) at the average closing price for such securities as reported by the principal stock exchange or over-the-counter trading market where such securities are listed for a period of twenty (20) Trading Days immediately following the Change of Control Transaction, in connection therewith is less than 110% of the Conversion Price as in effect on the date thereof.

"25% Threshold" means ownership by Benefit Plan Investors, in the aggregate, of 25% or more of the value of any class of equity interest in the Corporation (calculated by excluding the value of any interest held by any person, other than a Benefit Plan Investor, who has discretionary authority or control with respect to the assets of the Corporation or any person who provides investment advice to the Corporation for a fee (direct or indirect) with respect to such assets, or any affiliate of such person).

"Underlying Shares" means, collectively, the shares of Common Stock into which any shares of Series B Preferred Stock are convertible and the shares of Common Stock issuable upon payment of distributions thereon in accordance with the terms hereof.

Section 2. Designation and Amount. There shall be a series of Preferred Stock that shall be designated as "Series B 10.5% Cumulative Convertible Preferred Stock" and the number of shares constituting such series shall be 1,200,000. Such number of shares may be increased or decreased by resolution of the Board of Directors, subject to the terms of Section 7; provided, however, that no decrease shall reduce the number of shares of Series B Preferred Stock to less than the number of shares then issued and outstanding plus the number of shares issuable upon exercise of outstanding rights, options or warrants or upon conversion of outstanding securities issued by the Corporation.

Section 3. Ranking. In respect of rights to receive distributions and to participate in distributions or payments in the event of any liquidation, dissolution or winding up of the Corporation, the Series B Preferred Stock shall rank pari passu with any other shares of preferred stock of the Corporation that the Board of Directors of the Corporation shall designate as ranking pari passu (the "Parity Shares"), and will rank senior to the Common Stock, the Series A Junior Participating Preferred Stock and any other class or series of shares of the Corporation that the Board of Directors has not designated as ranking senior to or pari passu with the Series B Preferred Stock (collectively, the "Junior Shares").

Section 4. Dividends and Distributions.

- (a) Subject to the prior and superior rights of the holders of any shares of any series of Preferred Stock ranking prior and superior to the Series B Preferred Stock with respect to dividends, the holders of the then outstanding shares of Series B Preferred Stock shall be entitled to receive, when, as and if authorized and declared by the Board of Directors out of any funds legally available therefor cumulative dividends in an amount per share equal to the greater of (1) \$0.65625 per quarter (equal to a rate of 10.5% of the \$25.00 liquidation preference (the "Liquidation Preference") per annum) or (2) the Dividend Ratchet Amount. If for any reason the Corporation elects not to pay cash dividends on any quarterly Distribution Payment Date, the Corporation shall pay such dividends by issuing on such Distribution Payment Date, as a stock dividend on the then outstanding shares of Series B Preferred Stock, the number of shares of Common Stock equal to 100% of the cash dividend accumulated on such Distribution Payment Date, divided by the average closing sales price of the Common Stock as reported by the principal stock exchange or over-the-counter trading market where the Common Stock is listed for the twenty (20) Trading Days prior to the Business Day that immediately precedes the Distribution Payment Date. Quarterly dividends on the Series B Preferred Stock are payable as authorized by the Board of Directors, or if not authorized, on the fourth Tuesday of January, April, July and October of each year, commencing on or about April 27, 1999 (each such day being hereinafter called a "Distribution Payment Date" and each calendar quarter immediately preceding a Distribution Payment Date being hereinafter called the "Distribution Period" corresponding to such Distribution Payment Date), with respect to each Distribution Period, to stockholders of record of the Series B Preferred Stock as they appear on the stock transfer records of the Corporation at the close of business on the dividend record dates authorized by the Board of Directors, or if none are authorized, on the last Friday of December, March, June and September (each, a "Record Date"). The amount of any distribution payable for the initial Distribution Period and for any other Distribution Period greater or less than a full calendar quarter shall be prorated and computed on the basis of a 360-day year of twelve 30-day months. Distributions on each share of Series B Preferred Stock shall accumulate from and including the date of original issuance thereof, whether or not (1) distributions on such shares are earned or declared or (2) on any Distribution Payment Date there shall be funds legally available for the payment of distributions. Distributions paid on the Series B Preferred Stock in an amount less than the total amount of such distributions at the time accumulated and payable on such shares shall be allocated pro rata on a per share basis

among all such shares of Series B Preferred Stock at the time outstanding. Distributions on account of any arrearage for any past Distribution Periods may be declared and paid at any time, without reference to any regular distribution, as may be fixed by the Board of Directors.

The amount of any distributions accumulated on any shares of Series B Preferred Stock at any Distribution Payment Date shall be the amount of any unpaid distributions accumulated thereon through and during such Distribution Period, to and including such Distribution Payment Date, whether or not earned or declared, and the amount of distributions accumulated on any shares of Series B Preferred Stock at any date other than a Distribution Payment Date shall be equal to the sum of the amount of any unpaid distributions accumulated thereon, to and including the last preceding Distribution Payment Date, whether or not earned or declared. Accumulated but unpaid distributions will not bear interest and the holders of the Series B Preferred Stock will not be entitled to any distributions in excess of full cumulative distributions as described herein.

If any shares of Series B Preferred Stock are outstanding, no full distributions shall be declared or paid or set apart for payment on any other class or series of Parity Shares or Junior Shares for any period unless full cumulative distributions on the Series B Preferred Stock have been declared and paid or declared and a sum sufficient for the payment thereof has been set apart for payment on the Series B Preferred Stock for all past distribution periods and the then current distribution period. If distributions are not paid in full, or not declared in full and a sum sufficient for such full payment is not set apart for payment thereof, upon the Series B Preferred Stock and any class or series of Parity Shares, no distributions may be paid on Junior Shares and all distributions declared upon Series B Preferred Stock and upon any other class or series of Parity Shares shall be paid or declared pro rata so that in all cases the amount of distributions paid or declared per share on the Series B Preferred Stock and Parity Shares shall bear to each other the same ratio that accumulated distributions per share, including distributions accumulated or in arrears, if any, on the Series B Preferred Stock and Parity Shares bear to each other. Except as provided in the preceding sentence, unless full cumulative distributions on the Series B Preferred Stock have been paid or declared and a sum sufficient for such full payment set apart for payment for all past distribution periods and the then current distribution period, no distributions (other than distributions in shares of Common Stock or in any other Junior Shares) shall be declared or paid or set apart for payment or other distribution upon the Corporation's Common Stock, or, except as provided above, on any other Junior Shares or Parity Shares, nor shall any Common Stock or any other Junior Shares or Parity Shares be redeemed, purchased or otherwise acquired for any consideration (or any payment made to or available for a sinking fund for the redemption of any such shares) by the Corporation or any subsidiary of the Corporation (except in connection with a redemption or purchase or other acquisition of Common Stock made for purposes of an employee incentive or benefit plan, a conversion into or exchange for Junior Shares or redemptions for the purpose of preserving the Corporation's qualification as a REIT). Any distribution payment made on the Series B Preferred Stock shall first be credited against the earliest accumulated but unpaid distribution due with respect to such shares which remains payable. Holders of the Series B Preferred Stock shall not be entitled to any distributions, whether payable in cash, property or shares, in excess of full accumulated distributions as herein provided. No interest or sum of money in lieu of interest shall be payable in respect of any distribution payment or payments on the Series B Preferred Stock that may be in arrears.

If any shares of Series B Preferred Stock are outstanding, the Corporation shall not declare or pay or set apart for payment any cash dividend in respect of any Junior Shares during any Distribution Payment Period unless full cumulative distributions on the Series B Preferred Stock are paid in the same form (i.e., cash, Common Stock or any combination thereof) for such Distribution Payment Period.

Except as provided in these Articles Supplementary, the Series B Preferred Stock shall not be entitled to participate in the earnings or assets of the Corporation.

Section 5. Redemption.

- (a) Subject to subsection (c) of this Section 5, the Shares will be redeemable at the Redemption Price by the Corporation at any time between the second anniversary of the date of the first issuance of Series B Preferred Stock and the fifth anniversary of the date of the first issuance of Series B Preferred Stock, if the closing sales price of the Common Stock as reported by the principal stock exchange or over-the-counter trading market where the Common Stock is listed averages in excess of 150% of the Conversion Price for a period of at least 20 consecutive Trading Days ending within 30 days prior to the notice of redemption, payable at the Corporation's option in Common Stock or cash, as set forth in subsection (c) of this Section 5.
- (b) The Shares are redeemable at any time at the Redemption Price the Board of Directors deems it necessary to maintain the Corporation's status as a REIT or to prevent the Corporation's assets from being deemed "plan assets" under the Plan Asset Regulation, pursuant to Section 9, payable at the Corporation's option in Common Stock or cash, as set forth in subsection (c) of this Section 5.
- (c) On and after the fifth anniversary of the date of the first issuance of Series B Preferred Stock and upon giving of notice as provided below, the Series B Preferred Stock may be redeemed at the option of the Corporation, in whole or from time to time in part, at the Redemption Price, payable at the Corporation's option in (1) Common Stock, equal in number to the Redemption Price divided by the average of the closing sales price of the Common Stock as reported by the principal stock exchange or over-the-counter trading market for the twenty (20) Trading Days prior to the Business Day that immediately precedes the date fixed for redemption, or (2) cash; provided, however, that the Corporation may redeem shares of Series B Preferred Stock pursuant to subsection (1) of this subsection (c) only if the closing sales price of the Common Stock as reported by the principal stock exchange or over-the-counter trading market for the twenty (20) Trading Days prior to the Business Day that immediately precedes the date fixed for redemption, exceeds the Conversion Price in effect on the Business Day that immediately precedes the date fixed for redemption. Fractional shares will not be issued upon redemption of the Series B Preferred Stock, but, in lieu thereof, the Corporation will pay a cash adjustment based on the average of the closing prices of the Common Stock on the twenty (20) Trading Days prior to the business day immediately preceding the date fixed for redemption.
- (d) Upon the occurrence of a Triggering Event, each Series B Holder shall (in addition to all other rights it may have hereunder or under applicable law), have the right, exercisable at the sole option of such Series B Holder, to require the Corporation to redeem all or a portion of the Series B Preferred Stock then held by such Series B Holder for an amount in cash equal to the Redemption Price for each share of Series B Preferred Stock then held by such Series B Holder. For purposes of this Section, a share of Series B Preferred Stock is outstanding until such date as the Series B Holder shall have received Underlying Shares upon a conversion (or attempted conversion) thereof.
- (e) If fewer than all of the outstanding shares of Series B Preferred Stock is to be redeemed, the shares to be redeemed will be determined pro rata or by lot or in such other manner as prescribed by the Board of Directors in its sole discretion. In the event that such redemption is to be by lot, if as a result of such redemption any holder of Series B Preferred Stock would own shares in excess of the Ownership Limitation, because such holder's shares of Series B Preferred Stock were not redeemed, or were only redeemed in part, then, except in certain instances, the Corporation will redeem the requisite number of shares of Series B Preferred Stock of such holder such that he will not own shares in excess of the Ownership Limitation subsequent to such redemption. A new certificate shall be issued representing any unredeemed Series B Preferred Stock without cost to the holder thereof.

- (f) At any time prior to such time, if ever, as the Series B Preferred Stock qualifies as a "publicly offered security" under the Plan Asset Regulation, or qualifies for another exception from the "look-through" rule (i.e., the provisions of paragraph (a)(2) of the Plan Asset Regulation), if the Corporation determines that, as a result of transfers, conversions or otherwise, Benefit Plan Investors own 25% or more of the aggregate number of outstanding shares of Series B Preferred Stock (excluding for this purpose any shares held by persons exercising investment management authority over the assets of the Corporation or providing investment advice for a fee with respect to such assets and any affiliates of such persons), the Corporation will have the right to cause any number of Series B Preferred Stock that are held by Benefit Plan Investors to be redeemed so that following such redemption Benefit Plan Investors own less than 25% of the outstanding Series B Preferred Stock (but in no event may such redemptions reduce Benefit Plan Investor ownership to less than 20% of the Series B Preferred Stock) (excluding for this purpose any shares held by persons exercising investment management authority over the assets of the Corporation or providing investment advice for a fee with respect to such assets and any affiliates of such persons). Any such redemption will follow the redemption procedures set forth herein, except that the Redemption Date may be fewer than 30 days after the first notice of redemption to the extent necessary to prevent the Corporation's assets from being deemed Plan Assets and the Redemption Price shall be the Fair Market Value of such Series B Preferred Stock. If fewer than all the outstanding shares of Series B Preferred Stock that are held by Benefit Plan Investors are to be redeemed, the number of Series B Preferred Stock to be redeemed will be determined by the Board of Directors and such shares will be redeemed on a pro-rata basis from the holders of such shares that are Benefit Plan Investors in proportion to the number of Series B Preferred Stock held by such holders or by any other method as may be determined by the Board of Directors in its sole discretion.
- (g) Notice of any redemption will be given (1) if greater than fifty (50) holders own the Series B Preferred Stock, by publication in a newspaper of general circulation in the City of New York, such publication to be made once a week for two successive weeks commencing not less than 30 nor more than 60 days prior to the date fixed for redemption; or (2) if fifty (50) or fewer holders own the Series B Preferred Stock, by mailing of a similar notice by the Corporation, postage prepaid, not less than 30 nor more than 60 days prior to the redemption date, addressed to the respective holders of record of the Series B Preferred Stock to be redeemed at their respective addresses as they appear on the stock transfer records of the Corporation and the Company shall issue a press release related to the redemption at the time of the mailing. The notice provided shall state the Corporation's election to redeem such shares, stating (1) the date fixed for redemption thereof (the "Series B Preferred Stock Redemption Date"), (2) the Redemption Price, (3) the number of shares to be redeemed (and, if fewer than all the shares of Series B Preferred Stock are to be redeemed, the number of shares to be redeemed from such holder), (4) the place(s) where the Series B Preferred Stock certificates are to be surrendered for payment, (5) that distributions on the Series B Preferred Stock will cease to accumulate on the specified redemption date, (6) the date on which such holder's conversion rights as to the Series B Preferred Stock shall terminate and (7) whether the Redemption Price will be paid in cash or shares of Common Stock.
- (h) On or after the Series B Preferred Stock Redemption Date, or in connection with a redemption under Section 5(d), each holder of Series B Preferred Stock to be redeemed must present and surrender his Series B Preferred Stock certificate(s) to the Corporation at the place designated in such notice or, in the case of a redemption under Section 5(d), at [insert place for notice to the Corporation], and thereupon the Redemption Price of such shares will be paid to or on the order of the person whose name appears on such Series B Preferred Stock certificate(s) as the owner thereof and each such Series B Preferred Stock certificate(s) surrendered will be cancelled. From and after the Series B Preferred Stock Redemption Date (unless the Corporation defaults in payment of the redemption price, or such other time as

such certificates are delivered (in the case of a redemption under Section 5(d)), all distributions on the Series B Preferred Stock designated for redemption will cease to accumulate and all rights of the holders thereof (including conversion rights), except the right to receive the redemption price thereof (including all accumulated and unpaid distributions up to the Series B Preferred Stock Redemption Date), will cease and terminate, and such shares will not thereafter be transferred (except with the consent of the Corporation) in the stock transfer records of the Corporation, and such shares shall not be deemed to be outstanding for any purpose whatsoever. At its election, the Corporation, prior to the Series B Preferred Stock Redemption Date, may irrevocably deposit the Redemption Price of the Series B Preferred Stock so called for redemption in trust for the holders thereof with a bank or trust company, in which case such notice to holders of the Series B Preferred Stock to be redeemed will (1) state the date of such deposit, (2) specify the office of such bank or trust company as the place of payment of the Redemption Price and (3) call upon such holders to surrender the Series B Preferred Stock certificates representing such shares at such place on or about the date fixed in such redemption notice (which may not be later than the Series B Preferred Stock Redemption Date) against payment of the Redemption Price. Any monies so deposited which remain unclaimed by the holders of the Series B Preferred Stock at the end of two years after the Series B Preferred Stock Redemption Date will be returned by such bank or trust company to the Corporation.

- (i) Notwithstanding the foregoing, unless full cumulative distributions on all outstanding Series B Preferred Stock for all past Distribution Periods and the then current Distribution Period have been paid, or declared and a sum sufficient for the payment thereof set apart for payment, (1) no Series B Preferred Stock shall be redeemed under subsections (a), (b) or (c) of Section 5 unless all outstanding shares of Series B Preferred Stock are simultaneously redeemed; provided, however, that the foregoing shall not prevent the purchase or acquisition of Series B Preferred Stock (A) pursuant to subsection (f) of Section 5 and Section 9 or (B) pursuant to a purchase or exchange offer made on the same terms to holders of all outstanding Series B Preferred Stock, and (2) the Corporation shall not purchase or otherwise acquire directly or indirectly any Series B Preferred Stock (except by conversion into or exchange for shares of the Corporation ranking junior to the Series B Preferred Stock as to distribution rights and liquidation preference).
- (j) The holders of Series B Preferred Stock at the close of business on a Record Date will be entitled to receive the distribution payable with respect to such Series B Preferred Stock on the corresponding Distribution Payment Date notwithstanding the redemption thereof between such Record Date and the corresponding Distribution Payment Date or the Corporation's default in the payment of the distribution due. Except as provided above, the Corporation will make no payment or allowance for unpaid distributions, whether or not in arrears, on Series B Preferred Stock which have been called for redemption.
- (k) The Corporation covenants that any Common Stock issued upon redemption of the Series B Preferred Stock shall be validly issued, fully paid and nonassessable. The Corporation shall use its reasonable best efforts to list the Common Stock required to be delivered upon redemption of the Series B Preferred Stock, prior to such delivery, upon each national securities exchange, if any, upon which the shares of outstanding Common Stock are listed at the time of such delivery.
- (l) The Series B Preferred Stock has no stated maturity date and is not subject to any sinking fund or mandatory redemption provisions, except as provided in subsection (d) of Section 5.

Section 6. Liquidation Preference.

- (a) Upon the voluntary or involuntary dissolution, liquidation or winding up of the Corporation, the holders of the Series B Preferred Stock then outstanding shall be entitled to receive and to be paid out of the assets of the Corporation legally available for distribution to its stockholders, before any payment or distribution shall be made on any Junior Shares, the amount of \$25.00 per share of Series B Preferred Stock, plus accumulated and unpaid distributions (whether or not earned or declared) thereon.
- (b) After the payment to the holders of the Series B Preferred Stock of the full preferential amounts provided for in this Section 6, the holders of the Series B Preferred Stock as such shall have no right or claim to any of the remaining assets of the Corporation.
- (c) If, upon any voluntary or involuntary dissolution, liquidation, or winding up of the Corporation, the preference amounts payable with respect to the Series B Preferred Stock and any Parity Shares are not paid in full, no payment will be made to any holder of Junior Shares and the holders of the Series B Preferred Stock and of such Parity Shares will share ratably in any such distribution of assets of the Corporation in proportion to the full respective preferential amounts provided for in this Section 6 to which they are entitled.
- (d) None of (1) the sale or transfer of all or substantially all the property or business of the Corporation; (2) a statutory share exchange by the Corporation; or (3) the merger or consolidation of the Corporation into or with any other entity or the merger or consolidation of any other entity into or with the Corporation, shall be deemed to be a dissolution, liquidation or winding up, voluntary or involuntary, for the purposes of this Section 6.
- (e) In determining whether a distribution (other than upon voluntary or involuntary liquidation), by dividend, redemption or other acquisition of shares of the Corporation or otherwise, is permitted under Maryland law, amounts that would be needed, if the Corporation were to be dissolved at the time of the distribution, to satisfy the preferential rights upon dissolution of holders of Series B Preferred Stock will not be added to the Corporation's total liabilities.

Section 7. Voting Rights.

Except as provided below, the holders of the Series B Preferred Stock shall not be entitled to vote at any meeting of the stockholders for any purpose or otherwise to participate in any action taken by the Corporation or the stockholders thereof, or to receive notice of any meeting of stockholders.

- (a) In any matter in which the holders of Series B Preferred Stock are entitled to vote (as expressly provided herein), including any action by written consent, each share of Series B Preferred Stock shall be entitled to one vote.
- (b) As long as any Series B Preferred Stock remains outstanding, in addition to any other vote or consent required by law or the Charter, the Corporation will not, without the affirmative vote or consent of the holders of at least four-fifths of the shares of Series B Preferred Stock outstanding at the time, given in person or by proxy, either in writing or at a meeting (such series voting separately as a class), (1) authorize or create, or increase the authorized or issued amount of any class or series of shares ranking prior or senior to the Series B Preferred Stock with respect to the payment of distributions or the distribution of assets upon liquidation, dissolution or winding up, or reclassify any authorized shares of the Corporation into such shares, or create, authorize or issue any obligation or security convertible into or evidencing the right to purchase any such shares; (2) amend, alter or repeal the provisions of these Articles Supplementary for the Series B Preferred Stock; or (3) amend, alter or repeal the provisions of the Corporation's By-laws, or Charter in connection with any merger or consolidation, or otherwise (an "Event"), so as to materially and adversely affect any right, preference, privilege or voting power of the Series B Preferred Stock (as determined by the Board of Directors in good faith); provided, however, with respect to the occurrence

occurrence of any of the Events set forth in (3) above, so long as the Series B Preferred Stock (or shares into which the Series B Preferred Stock have been converted in any successor entity to the Corporation) remains outstanding or, if the Corporation is not the surviving entity, is converted into a security with substantially identical rights, preferences, privileges and voting power, then the occurrence of any such Event shall not be deemed to materially and adversely affect such rights, preferences, privileges or voting power of the Series B Preferred Stock; and provided further that (x) any increase in the amount of the authorized Preferred Stock or the designation or issuance of any additional Series B Preferred Stock or Parity Shares, or (y) any increase in the amount of authorized Series B Preferred Stock or any other Preferred Stock, in each case ranking on a parity with or junior to the Series B Preferred Stock with respect to payment of distributions or the distribution of assets upon liquidation, dissolution or winding up, shall not be deemed to materially and adversely affect such rights, preferences, privileges or voting powers.

The foregoing voting provisions will not apply if, at or prior to the time when the act with respect to which such vote would otherwise be required shall be effected, all outstanding Series B Preferred Stock shall have been redeemed or called for redemption and sufficient Common Stock has been reserved to effect such redemption or sufficient funds to effect such redemption shall have been deposited in accordance with Section 5.

Section 8. Conversion.

Holder of Series B Preferred Stock shall have the right to convert all or a portion of such shares into Common Stock, as follows:

- (a) Subject to and upon compliance with the provisions of this Section 8, a holder of Series B Preferred Stock shall have the right, at his option, at any time to convert such shares into the number of fully paid and nonassessable shares of Common Stock obtained by dividing the aggregate Liquidation Preference of such shares by the Conversion Price (as in effect at the time and on the date provided for in the last paragraph of subsection (b) of this Section 8) by surrendering such shares to be converted, such surrender to be made in the manner provided in subsection (b) of this Section 8; provided, however, that the right to convert shares called for redemption pursuant to Section 5 shall terminate at the close of business on the Series B Preferred Stock Redemption Date fixed for such redemption, unless the Corporation shall default in making payment of any amounts payable upon such redemption under Section 5 hereof.
- (b) In order to exercise the conversion right, the holder of Series B Preferred Stock to be converted shall surrender the certificate evidencing such shares, duly endorsed or assigned to the Corporation or in blank, at the office of the Transfer Agent, accompanied by written notice to the Corporation that the holder thereof elects to convert such Series B Preferred Stock. Unless the shares issuable on conversion are to be issued in the same name as the name in which such shares of Series B Preferred Stock are registered, each share surrendered for conversion shall be accompanied by instruments of transfer, in form satisfactory to the Corporation, duly executed by the holder or such holder's duly authorized agent and an amount sufficient to pay any transfer or similar tax (or evidence reasonably satisfactory to the Corporation demonstrating that such taxes have been paid).

Holder of Series B Preferred Stock at the close of business on a Record Date shall be entitled to receive the distribution payable on such shares on the corresponding Distribution Payment Date notwithstanding the conversion thereof following such Record Date and prior to such Distribution Payment Date. However, Series B Preferred Stock surrendered for conversion during the period between the close of business on any Record Date and the opening of business on the corresponding Distribution Payment Date (except shares converted after the issuance of a notice of redemption with respect to a Series B Preferred Stock Redemption Date during such period or coinciding with such Distribution Payment Date, such Series B Preferred Stock being entitled to such distribution on the

Distribution Payment Date) must be accompanied by payment of an amount equal to the distribution payable on such shares on such Distribution Payment Date. A holder of Series B Preferred Stock on a Record Date who (or whose transferee) tenders any such shares for conversion into Common Stock on such Distribution Payment Date will receive the distribution payable by the Corporation on such Series B Preferred Stock on such date, and the converting holder need not include payment of the amount of such distribution upon surrender of Series B Preferred Stock for conversion. The Corporation shall make further payment or allowance for, and a converting holder shall be entitled to, unpaid distributions in arrears (excluding the then-current quarter) on converted shares and for distributions on the Common Stock issued upon such conversion.

As promptly as practicable after the surrender of certificates for Series B Preferred Stock as aforesaid, the Corporation shall issue and shall deliver at such office to such holder, or on his written order, a certificate or certificates for the number of full shares of Common Stock issuable upon the conversion of such shares in accordance with the provisions of this Section 8, and any fractional interest in respect of a share of Common Stock arising upon such conversion shall be settled as provided in subsection (c) of this Section 8. Each conversion shall be deemed to have been effected immediately prior to the close of business on the date on which the certificates for Series B Preferred Stock shall have been surrendered and such notice (and if applicable, payment of an amount equal to the distribution payable on such shares) received by the Corporation as aforesaid, and the person or persons in whose name or names any certificate or certificates for Common Stock shall be issuable upon such conversion shall be deemed to have become the holder or holders of record of the shares represented thereby at such time on such date, and such conversion shall be at the Conversion Price in effect at such time and on such date, unless the stock transfer books of the Corporation shall be closed on that date, in which event such person or persons shall be deemed to have become such holder or holders of record at the opening of business on the next succeeding day on which such stock transfer books are open, but such conversion shall be at the Conversion Price in effect on the date on which such certificates for Series B Preferred Stock have been surrendered and such notice received by the Corporation.

- (c) No fractional shares or scrip representing fractions of Common Stock shall be issued upon conversion of the Series B Preferred Stock. Instead of any fractional interest in a share of Common Stock that would otherwise be deliverable upon the conversion of a share of Series B Preferred Stock, the Corporation shall pay to the holder of such share an amount in cash based upon the Current Market Price of Common Stock on the Trading Day immediately preceding the date of conversion. If more than one share of Series B Preferred Stock shall be surrendered for conversion at one time by the same holder, the number of shares of full Common Stock issuable upon conversion thereof shall be computed on the basis of the aggregate number of shares of Series B Preferred Stock so surrendered.
- (d) The Conversion Price or the securities into which the Series B Preferred Stock is convertible shall be adjusted from time to time as follows:
 - (1) if the Corporation's annualized Return on Equity for the six months ended June 30, 1999 (computed by multiplying the Return on Equity for such period by two) is less than the Ten Year U.S. Treasury Rate plus 200 basis points, then the Conversion Price will be reduced to \$4.50 per share after August 15, 1999. Any adjustment made pursuant to this subsection (d)(1) shall become effective immediately after the opening of business on August 16, 1999. If, prior to such date, the Conversion Price is adjusted pursuant to any other paragraph of this Section 8(d), the \$4.50 price referenced in this paragraph will be adjusted accordingly.
 - (2) if the Corporation shall be a party to any transaction (including without limitation a merger, consolidation, statutory share exchange, self tender offer for all or substantially all of the

Common Stock, sale of all or substantially all of the Corporation's assets or recapitalization of the Common Stock (each of the foregoing being referred to herein as a "Transaction"), in each case as a result of which Common Stock shall be converted into the right to receive shares, stock, securities or other property (including cash or any combination thereof), each share of Series B Preferred Stock which is not converted into the right to receive shares, stock, securities or other property in connection with such Transaction shall thereafter be convertible into the kind and amount of shares, stock, securities and other property (including cash or any combination thereof) receivable upon the consummation of such Transaction by a holder of that number of Common Stock into which one share of Series B Preferred Stock was convertible immediately prior to such Transaction, assuming such holder of Common Stock (1) is not a Person with which the Corporation consolidated or into which the Corporation merged or which merged into the Corporation or to which such sale or transfer was made, as the case may be (a "Constituent Person"), or an affiliate of a Constituent Person and (2) failed to exercise his or her rights of election, if any, as to the kind or amount of shares, stock, securities and other property (including cash) receivable upon consummation of such Transaction (each a "Non-Electing Share") (provided that if the kind or amount of shares, stock, securities and other property (including cash) receivable upon consummation of such Transaction by each Non-Electing Share is not the same for each Non-Electing Share, then the kind and amount of shares, stock, securities and other property (including cash) receivable upon consummation of such Transaction for each Non-Electing Share shall be deemed to be the kind and amount so receivable per share by a plurality of the Non-Electing Shares). The Corporation shall not be a party to any Transaction unless the terms of such Transaction are consistent with the provisions of this subsection (d), and it shall not consent or agree to the occurrence of any Transaction until the Corporation has entered into an agreement with the successor or purchasing entity, as the case may be, for the benefit of the holders of the Series B Preferred Stock, that will require such successor or purchasing entity, as the case may be, to make provision in its certificate or articles of incorporation or other constituent documents to the end that the provisions of this subsection (d) shall thereafter correspondingly be made applicable as nearly as may reasonably be, in relation to any shares of stock or other securities or property thereafter deliverable upon conversion of the Series B Preferred Stock. The provisions of this subsection (d) shall similarly apply to successive Transactions.

- (3) if the Corporation shall at any time or from time to time after the initial issuance of the Series B Preferred Stock effect a subdivision of the outstanding Common Stock, the Conversion Price then in effect immediately before that subdivision shall be proportionately decreased; conversely, if the Corporation shall at any time or from time to time after the initial issuance of the Series B Preferred Stock reduce the outstanding shares of Common Stock by combination or otherwise, the Conversion Price then in effect immediately before the combination shall be proportionately increased. Any adjustment under this subsection (d)(3) shall become effective at the close of business on the date the subdivision or combination becomes effective.
- (4) if the Corporation at any time or from time to time after the initial issuance of the Series B Preferred Stock shall make or issue, or fix a record date for the determination of holders of Common Stock or other securities entitled to receive, a dividend or other distribution payable in additional shares of Common Stock, then and in each such event the Conversion Price for the Series B Preferred Stock then in effect shall be decreased as of the time of such issuance or, in the event such a record date shall have been fixed, as of the close of business on such record

date, by multiplying the Conversion Price for the Series B Preferred Stock then in effect by a fraction:

- (a) the numerator of which shall be the total number of shares of Common Stock issued and outstanding immediately prior to the time of such issuance or the close of business on such record date; and
 - (b) the denominator of which shall be the total number of shares of Common Stock issued and outstanding immediately prior to the time of such issuance or the close of business on such record date, plus the number of shares of Common Stock issuable in payment of such dividend or distribution; provided, however, if such record date shall have been fixed and such dividend is not fully paid or if such distribution is not fully made on the date fixed therefor, the Conversion Price for the Series B Preferred Stock shall be recomputed accordingly as of the close of business on such record date and thereafter the Conversion Price for the Series B Preferred Stock shall be adjusted pursuant to this subsection (d)(4)(b) as of the time of actual payment of such dividends or distributions.
- (5) if the Corporation at any time or from time to time after the initial issuance of the Series B Preferred Stock shall make or issue, or fix a record date for the determination of holders of Common Stock entitled to receive, a dividend or other distribution payable in securities of the Corporation other than shares of Common Stock or securities of any other entity (including a subsidiary of the Corporation) or other property, then and in each such event provision shall be made so that the holders of Series B Preferred Stock shall receive upon conversion thereof in addition to the number of shares of Common Stock receivable thereupon, the amount of securities of the Corporation or such other entity or other property that they would have received had their Series B Preferred Stock been converted into Common Stock on the date of such event and had thereafter, during the period from the date of such event to and including the conversion date, retained such securities receivable by them as aforesaid during such period giving application to all adjustments called for during such period under this Section 8 with respect to the rights of the holders of the Series B Preferred Stock.
- (6) If the Common Stock issuable upon the conversion of the Series B Preferred Stock shall be changed into the same or a different number of shares of any class or classes of stock, whether by capital reorganization, reclassification or otherwise (other than a subdivision or combination of shares or stock dividend provided for above, or a reorganization, merger, consolidation or sale of assets provided for elsewhere in this Section 8), then and in each such event the holder of each share of Series B Preferred Stock shall have the right thereafter to convert such share into the kind and amounts of shares of stock and other securities and property receivable upon such reorganization, reclassification or other change, by holders of the number of shares of Common Stock into which such shares of Series B Preferred Stock might have been converted immediately prior to such reorganization, reclassification or change, all subject to further adjustment as provided herein.
- (7) If and whenever on or after the original date of issuance of shares of Series B Preferred Stock the Corporation issues or sells, or in accordance with subparagraph (b) of this subsection (d)(7) is deemed to have issued or sold, any Junior Shares for a consideration per share less than the Conversion Price in effect immediately prior to the time of such issuance or sale, then forthwith upon such issuance or sale the Conversion Price will be reduced to an amount determined by dividing (i) the sum

of (A) the product derived by multiplying the Conversion Price in effect immediately prior to such issuance or sale by the number of shares of Common Stock outstanding or deemed to be outstanding immediately prior to such issuance or sale, plus (B) the consideration, if any, received by the Corporation upon such issuance or sale, by (ii) the number of shares of Common Stock outstanding or deemed to be outstanding immediately after such issuance or sale.

- (a) For purposes of determining the adjusted Conversion Price under subparagraph (a) of this subsection (d)(7), the following will be applicable:
- (i) If the Corporation in any manner grants any rights or options to subscribe for or to purchase Junior Shares or any stock or other securities convertible into or exchangeable for Common Stock (such rights or options being herein called "Options" and such convertible or exchangeable stock or securities being herein called "Convertible Securities") and the price per share for which Common Stock is issuable upon the exercise of such Options or upon conversion or exchange of such Convertible Securities is less than the Conversion Price in effect immediately prior to the time of the granting of such Options, then the total maximum number of Junior Shares issuable upon the exercise of such Options or upon conversion or exchange of the total maximum amount of such Convertible Securities issuable upon the exercise of such Options will be deemed to be outstanding and to have been issued and sold by the Corporation for such price per share. For purposes of this subparagraph (b), the "price per share for which Junior Shares are issuable" will be determined by dividing (A) the total amount, if any, received or receivable by the Corporation as consideration for the granting of such Options, plus the minimum aggregate amount of additional consideration payable to the Corporation upon exercise of all such Options, plus in the case of such Options which relate to Convertible Securities, the minimum aggregate amount of additional consideration, if any, payable to the Corporation upon the issuance or sale of such Convertible Securities and the conversion or exchange thereof, by (B) the total maximum number of Junior Shares issuable upon the exercise of Options or upon the conversion or exchange of all such Convertible Securities issuable upon the exercise of such Options. No further adjustment of the Conversion Price will be made when Convertible Securities are actually issued upon the exercise of such options or when Junior Stock is actually issued upon the exercise of such Options or the conversion or exchange of such Convertible Securities.
- (ii) If the Corporation in any manner issues or sells any Convertible Securities and the price per share for which Junior Shares are issuable upon such conversion or exchange is less than the Conversion Price in effect immediately prior to the time of such issue or sale, then the maximum number of Junior Shares issuable upon conversion or exchange of such Convertible Securities will be deemed to be outstanding and to have been issued and sold by the Corporation for such price per share. For the purposes of this paragraph, the "price per share for which

Junior Shares are issuable" will be determined by dividing (A) the total amount received or receivable by the Corporation as consideration for the issue or sale of such Convertible Securities, plus the minimum aggregate amount of additional consideration, if any, payable to the Corporation upon the conversion or exchange thereof, by (B) the total maximum number of Junior Shares issuable upon the conversion or exchange of all such Convertible Securities. No further adjustment of the Conversion Price will be made when Junior Shares are actually issued upon the conversion or exchange of such Convertible Securities, and if any such issuance or sale of such Convertible Securities is made upon exercise of any Options for which adjustments of the Conversion Price had been or are to be made pursuant to other provisions of this Section 8, no further adjustment of the Conversion Price will be made by reason of such issue or sale.

- (iii) If the purchase price provided for in any Options, the additional consideration, if any, payable upon the conversion or exchange of any Convertible Securities, or the rate at which any Convertible Securities are convertible into or exchangeable for Junior Shares change at any time, the Conversion Price in effect at the time of such change will be readjusted to the Conversion Price which would have been in effect at such time had such Options or Convertible Securities still outstanding provided for such changed purchase price, additional consideration or changed conversion rate, as the case may be, at the time initially granted, issued or sold; provided that if such adjustment would result in an increase of the Conversion Price then in effect, such adjustment will not be effective until 30 days after written notice thereof has been given by the Corporation to all holders of shares of Series B Preferred Stock.
- (iv) Upon the expiration of any Option or the termination of any right to convert or exchange any Convertible Security without the exercise of any such Option or right, the Conversion Price then in effect hereunder will be adjusted to the Conversion Price which would have been in effect at the time of such expiration or termination had such Option or Convertible Security, to the extent outstanding immediately prior to such expiration or termination, never been issued.
- (v) If any Junior Shares, Option or Convertible Security is issued or sold or deemed to have been issued or sold for cash, the consideration received therefor will be deemed to be the net amount received by the Corporation therefor. In case any Junior Shares, Options or Convertible Securities are issued or sold for a consideration other than cash, the amount of the consideration other than cash received by the Corporation will be the fair value of such consideration, except where such consideration consists of securities, in which case the amount of consideration received by the Corporation will be the Current Market Price thereof as of the date of receipt. If any Junior Share, Option or Convertible Security is issued in connection with any merger in which the Corporation is the surviving corporation, the amount of consideration therefor will be deemed to be the fair value of such

portion of the net assets and business of the non-surviving corporation as is attributable to such Junior Shares, Options or Convertible Securities, as the case may be. The fair value of any consideration other than cash and securities will be determined in good faith by the Board of Directors of the Corporation.

- (vi) In case any Option is issued in connection with the issue or sale of other securities of the Corporation, together comprising one integrated transaction in which no specific consideration is allocated to such Option by the parties thereto, the Option will be deemed to have been issued without consideration.
 - (vii) The number of Junior Shares outstanding at any given time does not include shares owned or held by or for the account of the Corporation or any subsidiary, and the disposition of any shares so owned or held will be considered an issuance or sale of Junior Shares.
 - (viii) If the Corporation takes a record of the holders of Junior Shares (or any class thereof) for the purpose of entitling them (A) to receive a dividend or other distribution payable in Junior Shares, Options or in Convertible Securities or (B) to subscribe for or purchase Junior Shares, Options or Convertible Securities, then for purposes of this Section 8 such record date will be deemed to be the date of the issuance or sale of the shares of Junior Stock deemed to have been issued or sold upon the declaration of such dividend or upon the making of such other distribution or the date of the granting of such right of subscription or purchase, as the case may be.
 - (ix) Anything herein to the contrary notwithstanding, no adjustment will be made to the Conversion Price by reason of (A) the issuance of securities of the Corporation upon conversion of shares of Series B Preferred Stock, and (B) the issuance of any shares of the Corporation's capital stock to employees and directors of the Corporation pursuant to options and warrants granted to such employees and directors upon the approval of the Board of Directors of the Corporation, (C) the issuance of any shares of the Corporation's capital stock pursuant to any employee plan, and (D) any issuances pursuant to any of the Corporation's dividend reinvestment plans.
- (8) No adjustment in the Conversion Price shall be required unless such adjustment would require a cumulative increase or decrease of at least 1% in such price; provided, however, that any adjustments that by reason of this subsection (d)(8) are not required to be made shall be carried forward and taken into account in any subsequent adjustment until made; and provided, further, that any adjustment shall be required and made in accordance with the provisions of this Section 8 (other than this subsection (d)(8)) not later than such time as may be required in order to preserve the tax-free nature of a distribution to the holders of Common Stock. Notwithstanding any other provisions of this subsection (d), the Corporation shall not be required to make any adjustment to the Conversion Price for the issuance of any shares of Common Stock pursuant to any plan providing for the reinvestment of distributions or interest payable on securities of the Corporation and the investment of additional optional amounts in shares of Common Stock under such

plan. All calculations under this Section 8 shall be made to the nearest cent (with \$.005 being rounded upward) or to the nearest one-tenth of a share (with .05 of a share being rounded upward), as the case may be.

(e) If:

- (1) there shall be any reclassifications of the Common Stock or any consolidation or merger to which the Corporation is a party and for which approval of any stockholders of the Corporation is required, or a statutory share exchange involving the conversion or exchange of Common Stock into securities or other property, or a self tender offer by the Corporation for all or substantially all of its outstanding Common Stock, or the sale or transfer of all or substantially all of the assets of the Corporation as an entity and for which approval of any stockholder of the Corporation is required; or
- (2) there shall occur the voluntary or involuntary liquidation, dissolution or winding up of the Corporation;

then the Corporation shall cause to be filed with the Transfer Agent and shall cause to be mailed to the holders of the Series B Preferred Stock at their addresses as shown on the stock transfer records of the Corporation, as promptly as possible, but at least 15 days prior to the applicable date hereinafter specified, a notice stating the date on which such reclassification, consolidation, merger, statutory share exchange, sale, transfer, liquidation, dissolution or winding up is expected to become effective, and the date as of which it is expected that holders of Common Stock of record shall be entitled to exchange their Common Stock for securities or other property, if any, deliverable upon such reclassification, consolidation, merger, statutory share exchange, sale, transfer, liquidation, dissolution or winding up. Failure to give or receive such notice or any defect therein shall not affect the legality or validity of the proceedings described in this Section 8.

- (f) Whenever the Conversion Price is adjusted as herein provided, the Corporation shall promptly file with the Transfer Agent an officer's certificate setting forth the Conversion Price after such adjustment and setting forth a brief statement of the facts requiring such adjustment, which certificate shall be conclusive evidence of the correctness of such adjustment absent manifest error. Promptly after delivery of such certificate, the Corporation shall prepare a notice of such adjustment of the Conversion Price setting forth the adjusted Conversion Price and the effective date on which such adjustment becomes effective and shall mail such notice of such adjustment of the Conversion Price to the holder of each share of Series B Preferred Stock at such holder's last address as shown on the share records of the Corporation.
- (g) There shall be no adjustment of the Conversion Price in case of the issuance of any shares of the Corporation in a reorganization, acquisition or other similar transaction except as specifically set forth in this Section 8. If any action or transaction would require adjustment of the Conversion Price pursuant to more than one subsection of this Section 8, only one adjustment shall be made, and such adjustment shall be the amount of adjustment that has the highest absolute value.
- (h) If the Corporation shall take any action affecting the Common Stock, other than an action described in this Section 8, that would materially and adversely affect the conversion rights of the holders of the Series B Preferred Stock, the Conversion Price for the Series B Preferred Stock may be reduced, to the extent permitted by law, in such manner, and at such time, as the Board of Directors, in its reasonable discretion, based in part upon advice of independent financial and legal advisors, may determine in good faith to be equitable in the circumstances.

- (i) The Corporation covenants that it will at all times reserve and keep available, free from preemptive rights, out of the aggregate of its authorized but unissued Common Stock, for the purpose of effecting conversion of the Series B Preferred Stock, the full number of shares of Common Stock deliverable upon the conversion of all outstanding Series B Preferred Stock not theretofore converted. For purposes of this subsection (i), the number of shares of Common Stock that shall be deliverable upon the conversion of all outstanding Series B Preferred Stock shall be computed as if at the time of computation all such outstanding shares were held by a single holder.

The Corporation covenants that any Common Stock issued upon conversion or redemption of, or as a distribution in respect of, the Series B Preferred Stock shall be validly issued, fully paid and nonassessable. Before taking any action that would cause an adjustment reducing the Conversion Price below the then par value of the Common Stock deliverable upon conversion of the Series B Preferred Stock, the Corporation will take any action that, in the opinion of its counsel, may be necessary in order that the Corporation may validly and legally issue fully paid and nonassessable Common Stock at such adjusted Conversion Price.

The Corporation shall use its reasonable best efforts to list the Common Stock required to be delivered upon conversion of, and any Common Stock issued upon redemption or as a distribution in respect of, the Series B Preferred Stock, prior to such delivery, upon each national securities exchange, if any, upon which the outstanding Common Stock are listed at the time of such delivery.

The Corporation shall take any action necessary to ensure that any shares of Common Stock issued upon conversion or redemption of, or as a distribution in respect of, shares of Series B Preferred Stock are freely tradeable and not subject to any resale restrictions under the Act, or any applicable state securities or blue sky laws (other than any shares of Common Stock which are held by an "affiliate" (as defined in Rule 144 under the Act)).

- (j) The Corporation will pay any and all documentary stamp or similar issue or transfer taxes payable in respect of the issue or delivery of Common Stock or other securities or property on conversion of the Series B Preferred Stock pursuant hereto; provided, however, that the Corporation shall not be required to pay any tax that may be payable in respect of any transfer involved in the issue or delivery of Common Stock or other securities or property in a name other than that of the holder of the Series B Preferred Stock to be converted, and no such issue or delivery shall be made unless and until the person requesting such issue or delivery has paid to the Corporation the amount of any such tax or has established, to the reasonable satisfaction of the Corporation, that such tax has been paid.

In addition to the foregoing adjustments, the Corporation shall be entitled to make such reductions in the Conversion Price, in addition to those required herein, as it in its discretion considers to be advisable in order that any share distributions, subdivisions of shares, reclassification or combination of shares, distribution of rights, options, warrants to purchase shares or securities, or a distribution of other assets (other than cash distributions) will not be taxable or, if that is not possible, to diminish any income taxes that are otherwise payable because of such event.

- (k) In no event shall a Series B Holder be permitted to convert shares of Series B Preferred Stock to the extent such conversion would result in such Series B Holder beneficially owning (as determined in accordance with Section 13(d) of the Exchange Act and the rules thereunder) more than 4.999% of the then issued and outstanding shares of Common Stock, including shares issuable upon conversion of Series B Preferred Stock held by such Series B Holder after application of this paragraph. The provisions of this paragraph may be waived by a Series B Holder (but only as to itself) upon not less than 75 days' prior notice to the Corporation, and the provisions of this paragraph shall continue to apply until such 75th day (or later, if stated in the notice of waiver). Each Series B Holder shall have the sole authority and obligation to determine whether the restriction contained in this Section

applies, and each conversion by a Series B Holder shall be deemed to be accompanied by the representation that such conversion is in accordance with the provisions of this paragraph. No conversion in violation of this paragraph but otherwise in accordance with the Charter shall affect the status of the securities issued upon such conversion as validly issued, fully paid and nonassessable.

Section 9. Ownership and Transfer Limitations.

- (a) REIT-Related Restrictions. The Ownership and transfer of the Series B Preferred Stock shall be restricted as provided in the Charter.
- (b) ERISA-Related Restrictions. No Benefit Plan Investor may acquire Series B Preferred Stock without the Corporation's prior written consent (which consent may be withheld in the Corporation's sole and absolute discretion). Prior to the Series B Preferred Stock qualifying as a "publicly-offered security" or the availability of another exception to the "look-through" rule (i.e., the provisions of paragraph (a)(2) of the Plan Asset Regulation), transfers of Series B Preferred Stock to Benefit Plan Investors that would increase aggregate Benefit Plan Investor ownership of the Series B Preferred Stock above the 25% Threshold will be void ab initio. In addition, in the event that the aggregate number of Series B Preferred Stock owned by Benefit Plan Investors, but for the operation of this sentence, would meet or exceed the 25% Threshold, (1) the Series B Preferred Stock held by Benefit Plan Investors shall be deemed to be Shares-in-Trust, pro-rata, to the extent necessary to reduce aggregate Benefit Plan Investor ownership of the Series B Preferred Stock below the 25% Threshold, and (2) such number of Series B Preferred Stock (rounded up, in the case of each holder, to the nearest whole share) shall be transferred automatically and by operation of law to the Trust (as described in Article VII of the Charter) to be held in accordance with this subsection (b) of Section 9 and otherwise in accordance with Article VII, of the Charter and (3) the Benefit Plan Investors previously owning such Shares-in-Trust shall submit such number of Series B Preferred Stock for registration in the name of the Trust. Such transfer to a Trust and the designation of Series B Preferred Stock as Shares-in-Trust shall be effective as of the close of business on the business day prior to the date of the event that otherwise would have caused aggregate Benefit Plan Investor ownership of Series B Preferred Stock to meet or exceed the 25% Threshold.

Prior to the discovery of the existence of the Trust, any transfer of Series B Preferred Stock by a Benefit Plan Investor to a non-Benefit Plan Investor shall reduce the number of Shares-in-Trust on a one-for-one basis, and to that extent such shares shall cease to be designated as Shares-in-Trust and shall be returned, effective at exactly the time of the transfer to the non-Benefit Plan Investor, automatically and without further action by the Corporation or the Benefit Plan Investor, to all Benefit Plan Investors (or the transferee, if applicable) pro rata in accordance with the Benefit Plan Investors' prior holdings. After the discovery of the existence of the Trust, but prior to the redemption of all discovered Shares-in-Trust and/or the submission of all discovered Shares-in-Trust for registration in the name of the Trust, any transfer of Series B Preferred Stock by a Benefit Plan Investor to a non-Benefit Plan Investor shall reduce the number of Shares-in-Trust on a one-for-one basis, and to that extent such shares shall cease to be designated as Shares-in-Trust and shall be returned, automatically without further action by the Corporation or the Benefit Plan Investor, to the transferring Benefit Plan Investor (or its transferee, if applicable).

In the event that any shares of Series B Preferred Stock are deemed "Shares-in-Trust" pursuant to this subsection (b) of Section 9, the holder shall cease to own any right or interest with respect to such shares and the Corporation will have the right to redeem such Shares-in-Trust for an amount equal to their Fair Market Value, which proceeds shall be payable to the purported owner. This subsection (b) of Section 9 shall cease to apply and all Shares-in-Trust shall cease to be designated as Shares-in-Trust and shall be returned, automatically and by operation of law, to their purported owners, all of which shall occur at such time as the Series B Preferred Stock qualify as a publicly

offered security or if another exception to the "look-through" rule under the Plan Asset Regulation applies..

SECOND: The Shares have been reclassified by the Board of Directors

pursuant to Article VI of the Charter.

THIRD: These Articles Supplementary have been approved by the Board of

Directors in the manner and by the vote required by law.

FOURTH: The undersigned Secretary of the Corporation acknowledges these

Articles Supplementary to be the corporate act of the Corporation and, as to all matters or facts required to be verified under oath, the undersigned President acknowledges that to the best of his knowledge, information and belief, these matters and facts are true in all material respects and that this statement is made under the penalties for perjury.

IN WITNESS WHEREOF, the Corporation has caused these Articles Supplementary to be signed in its name and on its behalf by its President and attested to by its Secretary on this 21st day of December, 1998.

ATTEST:

/s/ Ronald Morrison

Ronald Morrison
Secretary

By: /s/ William Ashmore (SEAL)

William Ashmore
President

IMPAC MORTGAGE HOLDINGS, INC.

This Certificate and the shares represented hereby are issued and shall be held subject to all of the provisions of the charter of the Corporation (the "Charter") and the Bylaws of the Corporation and any amendments thereto, by all of which the holder by acceptance hereof is bound.

The Corporation will furnish to any stockholder, on request and without charge, a full statement of the information required by Section 2.211(b) of the Corporations and Associations Article of the Annotated Code of Maryland with respect to the designations and any preferences, conversion and other rights, voting powers, restrictions, limitations as to dividends and other distributions, qualifications, and terms and conditions of redemption of the stock of each class which the Corporation has authority to issue and, if the Corporation is authorized to issue any preferred or special class in series, (i) the differences in the relative rights and preferences between the shares of each series to the extent set, and (ii) the authority of the Board of Directors to set such rights and preferences to subsequent series. The foregoing summary does not purport to be complete and is subject to and qualified in its entirety by reference to the Charter, a copy of which will be sent without charge to each stockholder who so requests. Such request must be made to the Secretary of the Corporation at its principal office or to the Transfer Agent.

The shares requested by this certificate are subject to restrictions on Beneficial and Constructive Ownership and Transfer for the purpose of the Corporation's maintenance of its status as a Real Estate investment Trust under the Internal Revenue Code of 1986, as amended (the "Code"). Subject to certain further restrictions and except as expressly provided in the Charter, (i) no Person may Beneficially or Constructively Own shares of the Corporation's Common Stock in excess of 9.5 percent (in value or number of shares) of the outstanding shares of Common Stock of the Corporation, unless such Person is an Excepted Holder (in which case the Excepted Holder Limit shall be applicable); (ii) no Person may Beneficially or Constructively Own shares of Capital Stock of the Corporation unless such Person is an Excepted Holder (in which case the Excepted Holder Unit shall be applicable); (iii) no Person may Beneficially or Constructively Own shares of Capital Stock of the Corporation in excess of 9.5 percent of the value of the total outstanding shares of Capital Stock of the Corporation, unless such Person is an Excepted Holder (in which case the Excepted Holder Limit shall be applicable); (iv) no Person may Beneficially or Constructively Own Capital Stock that would result in the Corporation being "closely held" under Section 856(h) of the Code or otherwise cause the Corporation to fail to qualify as a REIT, and (v) no Person may Transfer shares of Capital Stock if such transfer would result in the Capital Stock of the Corporation being owned by fewer than 100 Persons. Any Person who Beneficially or Constructively Owns or attempts to Beneficially or Constructively Own shares of Capital Stock which causes or will cause a Person to Beneficially or Constructively Own Shares of Capital Stock in excess or in violation of the above limitations must immediately notify the Corporation. If any of the restrictions on transfer or ownership are violated, the shares of Capital Stock represented hereby will be automatically transferred to a Trustee of a trust for the benefit of one or more Charitable Beneficiaries. In addition, upon the occurrence of certain events, attempted Transfers in violation of the restrictions described above may be void ab initio. All capitalized terms in this legend have the meanings defined in the Charter, as the same may be amended from time to time, a copy of which, including the restrictions on transfer and ownership, will be furnished to each holder of Capital Stock of the Corporation on request and without charge.

KEEP THIS CERTIFICATE IN A SAFE PLACE. IF IT IS LOST, STOLEN OR DESTROYED, THE CORPORATION MAY REQUIRE A BOND OF INDEMNITY AS A CONDITION TO THE ISSUANCE OF A REPLACEMENT CERTIFICATE.

NOTICE OF ELECTION TO CONVERT
(CONVERTIBLE INTO COMMON STOCK)

The undersigned hereby irrevocably elects to convert _____ shares of Series B 10.5% Cumulative Convertible Preferred Stock represented by the within certificate into shares of Common Stock of Impac Mortgage Holdings, Inc. (as such shares may be constituted on the conversion date) in accordance with the provisions of the Charter, as amended.

Dated _____

Signature

the provisions of the Charter, as amended.

Dated _____

Signature

The following abbreviations, when used in the inscription on the face of this certificate, shall be construed as though they were when lien cut in full according to applicable laws or regulations.

TEN COM - as tenants in common

UNIF GIFT MIN ACT - _____ CUSTODIAN _____
(Cust) (Minor)

TEN ENT - as tenants by the entireties under Uniform Gifts to Minors Act

JT TEN - as joint tenants with right of survivorship and not as tenants in common _____ (State)

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

For Value Received hereby sells, assigns and transfer unto

PLEASE INSERT SOCIAL SECURITY OR OTHER IDENTIFYING NUMBER OF TRANSFEREE

(PLEASE PRINT OR TYPEWRITE NAME AND ADDRESS OF ASSIGNEE)

----- Shares of Series B 10.5% Cumulative Convertible Refund Stock \$.01 par value per share of the Corporation represented by the within Certificate and do hereby irrevocably constitute and appoint

to transfer the said shares of Series B 10.5% Cumulative Convertible Refund Stock on the books of the Corporation with full power of substitution in the premises.

Dated: _____

NOTICE: THE SIGNATURE OF THIS ASSIGNMENT MUST CORRESPOND WITH THE NAME AS WRITTEN UPON THE FACE OF THE OF THE CERTIFICATE IN EVERY PARTICULAR WITHOUT ALTERNATION OR ENLARGEMENT OR ANY CHANGE WHATEVER.

SIGNATURE(S) GUARANTEED

By _____

THE SIGNATURE(S) SHOULD BE GUARANTEED BY AN ELIGIBLE GUARANTOR INSTITUTION (Banks, Stockbrokers, Savings and Loan Associations and Credit Unions) WITH MEMBERSHIP IN AN APPROVED SIGNATURE GUARANTEE MEDALLION PROGRAM PURSUANT TO S.E.C. RULE 17Ad-15.

EXHIBIT 12.2

IMPACT MORTGAGE HOLDINGS, INC. AND SUBSIDIARIES
 COMPUTATION OF RATIO OF EARNINGS TO FIXED
 CHARGES AND PREFERRED STOCK DIVIDENDS
 (dollar amounts in thousands)

Computation of ratio of earnings to fixed charges and preferred stock dividends
 (including CMO debt):

	For the nine months ended September 30,		For the year ended December 31,					
	Pro forma	1998	Pro forma	1997	1996	1995	1994	1993
Fixed charges	\$128,462	\$128,482	\$118,332	\$118,332	\$75,954	\$3,552	\$ 762	\$ 533
Preferred stock dividends	2,363	-	3,150	-	-	-	-	-
Combined fixed charges and preferred stock dividends	130,845	128,482	121,482	118,332	75,954	3,552	762	533
Net earnings	2,130	2,130	(16,029)	(16,029)	11,879	2,134	460	4,747
Preferred stock dividends	(2,363)	-	(3,150)	-	-	-	-	-
Total	\$130,612	\$130,612	\$102,303	\$102,303	\$87,833	\$5,666	\$1,222	\$5,280
Ratio of earnings to fixed charges and preferred stock dividends	1.0x	1.0x	0.8x	0.9x	1.2x	1.6x	1.6x	9.9x

INDEPENDENT AUDITORS' CONSENT

The Board of Directors
Impac Mortgage Holdings, Inc.:

We consent to the use of our report dated February 9, 1998, incorporated herein by reference and to the reference to our firm under the heading "Experts" in the Prospectus.

KPMG Peat Marwick LLP

Orange County, California
December 22, 1998

INDEPENDENT AUDITORS' CONSENT

The Board of Directors
Impac Funding Corporation:

We consent to the use of our report dated February 9, 1998, incorporated herein by reference and to the reference to our firm under the heading "Experts" in the Prospectus.

KPMG Peat Marwick LLP

Orange County, California
December 22, 1998