

Chase Manhattan Corporation prior to the Merger and are not affiliates of J.P. Morgan Chase & Co., post-Merger.

The applicant represents that a letter of credit is an instrument issued by a bank or other lending institution, whose function is similar to that of a guaranty and is used in commercial leasing transactions as a substitute for a security deposit. The applicant represents that the lending institution, upon issuing a letter of credit, promises that if actions of the tenant trigger certain default events set forth in the lease, such as bankruptcy of the tenant, it will make such lease payments directly to the Fund up to the face amount of the letter of credit. The beneficiary of the letter of credit, the Fund, is issued a redeemable instrument that it may take directly to the lending institution and demand payment merely by stating that payment is due pursuant to the terms of the lease. The bank is obligated to pay without further inquiry and generally cannot be sued by the tenant for having paid under the letter of credit, absent fraud on its part. The Fund is not required to have any further involvement with the tenant in order to receive payment under the letter of credit from the bank. The letters of credit automatically renew annually until their final stated expiration date, and are either cash collateralized by the tenants or, in the case of particularly creditworthy tenants, the tenants enter into a reimbursement agreement with the bank. The applicant represents that "cash collateralized" does not mean that cash is deposited as collateral. Rather, the collateral is a security interest in cash held by the bank in the name of the tenant. The applicant represents that the terms of the Letters of Credit are governed by the 1993 Uniform Customs and Practice for Documentary Credits (Customs and Practice) that contain standard provisions widely accepted in the banking industry promulgated by the International Chamber of Commerce Commission on Banking Technique and Practice which most banking institutions incorporate by reference in their letters of credit.

8. One Letter of Credit, P-398582, was issued by Chase Manhattan Bank with respect to property referred to in the application as the Glendale Plaza property. The Letter of Credit currently has an aggregate amount of \$500,000 and names Glendale Plaza Realty Holding Co., (a wholly-owned subsidiary of the Fund) as beneficiary. The Glendale Plaza property was acquired by Glendale Plaza Realty Holding Company from an unrelated third party on November 30, 2000. The tenant subsequently directed that the

Letter of Credit be transferred to Glendale Plaza Realty Holding Co., as beneficiary. The letter automatically renews, without action by JPMCB, through its final expiration date of March 22, 2004.

9. A second Letter of Credit, P-264349, was issued by Chase Manhattan Bank with respect to property referred to by the applicant as the 303 Wacker Drive property, located in Chicago, Il. The property was purchased from Metropolitan Life Insurance Co (MetLife) in December 1997 by the Fund's wholly-owned subsidiary 303 Wacker Realty, LLC. The letter of credit was purchased by the tenant in favor of the original landlord, MetLife, in an amount of \$18,845. The Letter of Credit provided that the face amount of the letter could be reduced over the course of the lease in proportion to the tenant's remaining obligations thereunder and was accordingly reduced to a face amount of \$12,563 as of October 1, 1998. The applicant represents that this type of reduction for a tenant in good standing is traditional in the real estate industry. The letter expired on September 30, 2001, and was not reissued in the name of 303 Wacker Realty, LLC and was not renewed. The applicant represents that the tenant is currently in bankruptcy and had rent in arrears discharged in the bankruptcy in the amount of \$17,733.87. On the recommendation of the independent fiduciary, the property manager has reimbursed the Fund for \$12,563, the full face amount of the Letter of Credit.

The applicant represents that on July 5, 2000, a new Letter of Credit was issued with respect to the same tenant in favor of 303 Wacker Realty, LLC, in the amount of \$6,990. This letter covers additional space leased by the tenant with final annual automatic renewal dates until June 30, 2005, the final expiration date. The applicant requests relief for both Letters of Credit associated with the property owned by 303 Wacker Realty, LLC.

10. The applicant also requests exemptive relief for any future Letters of Credit issued by JPMCB or its affiliates to third-party tenants in Fund-owned buildings. The applicant represents that such future Letters of Credit would be structured similarly to the current outstanding Letters of Credit.

The applicant represents that the Letters of Credit function to ensure continuous and timely rental payments in the case of default by one of the tenants in the buildings owned by the Fund and their use is customary in the real estate and banking industries. The applicant represents that it is generally difficult for tenants to obtain a Letter of

Credit from an institution with which they do not otherwise have a business banking relationship. Therefore, if JPMCB or its affiliate is the tenant's commercial bank, it may be the tenant's only source to obtain a Letter of Credit. In addition, the applicant represents that given the increasing number of bank mergers, there are fewer banks available from which to purchase a Letter of Credit. The applicant represents that eliminating JPMCB or its affiliates from the available pool of Letters of Credit providers would be disadvantageous to the Fund and the Plans.<sup>2</sup>

11. The applicant represents that AFC has been retained as independent fiduciary to determine whether it is appropriate to draw on any currently outstanding or future Letter of Credit. AFC will be given periodic (monthly) reports of rental payments by the tenant so it can confirm whether the Letter of Credit should be called. In addition, AFC will act in place of the Trustee in any situation which presents a conflict of interest for the Trustee, including but not limited to: the need to enforce a remedy against itself or an affiliate with respect to its obligations under a Letter of Credit.

Future Letters of Credit issued by JPMCB or its affiliates will be permitted only if: (a) JPMCB or its affiliate, as the issuer of a Letter of Credit, has at least an "A" credit rating by at least one nationally recognized statistical rating service at the time of the issuance of the Letter of Credit; (b) the Letter of Credit has objective market drawing conditions; (c) JPMCB does not "steer" the Fund's tenants to itself or its affiliates in order to obtain the Letter of Credit; (d) Letters of Credit are issued only to tenants which are unrelated to JPMCB; and (e) the terms of any future Letters of Credit are not more favorable to the tenants than the terms generally available in transactions with other similarly situated unrelated third-party commercial clients of JPMCB or its affiliates.

12. The applicant represents that prior to the Merger, affiliates of The Chase Manhattan Corporation leased space in the Park Central office complex owned by the Fund in Dallas, Texas. Since December 31, 2000, the Fund has leased

<sup>2</sup> The applicant states that several more Letters of Credit were issued to joint ventures in which the Fund has an interest. The applicant represents that such ventures constitute "real estate operating companies" within the meaning of the plan asset regulations set forth in 29 CFR section 2510.3-101. The applicant notes the existence of these other Letters of Credit to show that the ability of JPMCB and its affiliates to provide such Letters of Credit are an important source of economic protection for the Fund.