

CROSS-EASEMENT, UTILITIES SERVICES
AND INSURANCE AGREEMENT

THIS AGREEMENT is made this 19th day of June, 1979, by and between GATEWAY CAPITAL, INC., a Georgia corporation (hereinafter referred to as "Residential"), and THREE RIVERS CAPITAL, INC., a Georgia corporation (hereinafter referred to as "Commercial").

W I T N E S S E T H:

WHEREAS, Residential and Commercial are the owners respectively of various interests in a certain parcel of land (hereinafter referred to as the "Land"), certain air space above the Land and certain portions of the improvements on the Land;

WHEREAS, Residential and Commercial wish to enter into this Agreement to delineate their respective rights and responsibilities in connection with their use and occupancy of the "Premises" (as hereinafter defined); and

WHEREAS, Residential contemplates that on or about the date hereof Residential will submit the Land and the improvements thereon owned by Residential to the condominium form of ownership pursuant to the Unit Property Act of the Commonwealth of Pennsylvania;

NOW, THEREFORE, for and in consideration of the premises and the mutual covenants and conditions herein contained, Residential and Commercial, each intending to be legally bound and to bind their respective corporate successors, successors in title and assigns, hereby covenant and agree as follows:

ARTICLE I.

DEFINITIONS

The terms used in this Agreement shall have the meaning for each stated as follows unless the context otherwise requires:

1.1 "Association" means Gateway Towers Condominium Association, Inc., a Pennsylvania nonprofit corporation, or any other nonprofit corporation or unincorporated association used by the "Council" (as hereinafter defined) to manage the affairs of the Condominium and the operation of all or any portion of the "Residential Area" (as hereinafter defined) submitted to the Condominium (as hereinafter defined).

1.2 "Building" means the building on the Land commonly known as Gateway Towers, having a street address of 320 Fort Duquesne Boulevard, Pittsburgh, Pennsylvania 15222, and containing space used for residential purposes and space used for commercial purposes.

1.3 "Code of Regulations" means the governing regulations adopted by the Council in accordance with the Unit Property Act of the Commonwealth of Pennsylvania for the administration and management of the Association and the operation of all or any portion of the Residential Area submitted to the Condominium.

1.4 "Commercial" means Three Rivers Capital, Inc., and unless the context otherwise requires, its corporate successors, successors in title and assigns.

1.5 "Commercial Area" means the following floors of the Building, all of which are subject to the easements for Residential described in this Agreement: the ground level (first floor), second

floor, third floor and top (twenty-seventh) floor and the two floors below the ground level (the basement and subbasement), all as more particularly described in the "Declaration" (as hereinafter defined), except those certain areas in which Residential has easements pursuant to Sections 4.3 and 4.4.

1.6 "Condominium" means the condominium regime known as Gateway Towers Condominium or any other condominium regime created by Residential with respect to all or any portion of the Residential Area.

1.7 "Council" means the board of administration who, in accordance with the Unit Property Act of the Commonwealth of Pennsylvania, as Directors of the Association and through the Association, shall manage the business, operation and affairs of the "Unit Owners" (as hereinafter defined), and all or any portion of the Residential Area submitted to the Condominium.

1.8 "Declaration" means the Declaration of Condominium of the Condominium.

1.9 "Declaration Plan" means the Declaration Plan for the Condominium.

1.10 "Exterior Improvements" mean all improvements on the Land other than the Building.

1.11 "Improvements" mean all improvements on the Land, including the Building.

1.12 "Land" means only the surface area of a certain lot or parcel of land, together with an easement appurtenant thereto and all other appurtenances thereto, situate in the Second Ward of the City of Pittsburgh, Allegheny County, Pennsylvania, more particularly described in Exhibit "A" attached hereto and made a part hereof by this reference.

1.13 "Mortgagee Protective Agreement" means the Mortgagee Protective Agreement executed by Gateway Towers Condominium Association, Inc. and attached as Exhibit "B" to the Code of Regulations recorded on or about the date hereof in the Office of the Recorder of Deeds of Allegheny County, Pennsylvania, or any other agreement executed by the Association to establish standards for any "Policy" (as hereinafter defined).

1.14 "Policy" means any policy of insurance placed in force pursuant to this Agreement covering the Premises or any portion thereof or interest therein.

1.15 "Premises" mean the Land, the Building and the Exterior Improvements.

1.16 "Residential" means Gateway Capital, Inc., and, unless the context otherwise requires, its corporate successors, successors in title (including "Unit Owners", as hereinafter defined), and assigns permitted in accordance with the terms of this Agreement.

1.17 "Residential Area" means the "Residential Portion of the Building" (as hereinafter defined), the Land and the Exterior Improvements.

1.18 "Residential Portion of the Building" means the following, all subject to the easements for Commercial described in this Agreement: the fourth through the twenty-sixth floors (there being

no thirteenth floor) of the Building, all as more particularly described in the Declaration, those certain areas in which Residential has easements pursuant to Sections 4.3 and 4.4, the cars and equipment appurtenant to the four main or high-rise elevators and the intercom system serving the apartments within the fourth through the twenty-sixth floors of the Building.

1.19 "Unit" means one of the separate and identified 308 private dwellings in the Residential Portion of the Building subject to exclusive ownership in accordance with the documentation and laws governing the Condominium.

1.20 "Unit Owner" means any owner, or as the case may be, owners in fee simple of a Unit.

ARTICLE II.

INTENT

Residential and Commercial and their respective corporate successors, successors in title and assigns permitted under the terms of this Agreement shall occupy, use and maintain the Premises during the entire term of this Agreement in accordance with the provisions hereof in first-class condition for both residential and commercial use and occupancy so that the Premises may be enjoyed as fully and effectively, and the same may be operated as efficiently, as if the Premises were not separately owned and so that the expenses incident to such use and occupancy shall be fairly apportioned between Residential and Commercial.

ARTICLE III.

GENERAL EASEMENTS

3.1 Support. Residential and Commercial shall have free, uninterrupted and perpetual easements for structural support, both subjacent and lateral, for the respective portions of the Building owned by each.

3.2 Utility Services and Ingress and Egress. Residential and Commercial shall have all such easements and rights of way as are necessary or desirable to accommodate all existing pipes, ducts, cables, conduits, public utility lines, ventilator shafts, elevator openings and shafts, mail shutes, incinerator shafts, stairwells and every other facility of every kind and nature which passes through or enters either the Commercial Area or the Residential Area for the providing of utility services therefor and means of ingress and egress thereto, together with an easement to enable the owners and occupants thereof to maintain, repair, replace, alter and supplement all of such facilities, to the end that the Building may at all times continue to be used, occupied and operated as provided in Article II without any necessity for either Residential or Commercial to request or obtain from the other any additional easement or right of way for the providing of utility services or means or ingress or egress. Moreover, Residential and Commercial shall each have without charge all such easements and rights of way from time to time as are necessary or desirable for the use, occupancy and operations of the Premises in accordance with Article II, provided that all such easements and rights of way through the Residential Area shall not interfere with the occupancy and use of any portion of the Residential Area occupied for residential purposes, and all such easements and rights of way

through the Commercial Area shall not interfere with the occupancy and use of any portion of the Commercial Area occupied for commercial purposes.

ARTICLE IV.

SPECIFIC EASEMENTS FOR INGRESS AND EGRESS

In addition to the easements described in Article III, Residential and Commercial shall have certain specific easements pursuant to the following provisions:

4.1 Use of a Portion of Land by Commercial and Ingress and Egress on Land for Commercial and Residential. The owners and occupants of the Commercial Area and their employees and invitees shall have (a) an exclusive easement for the use and occupancy of the portion of the Land south of the Building, subject to an easement as necessary for the owners and occupants of the Residential Area and their employees and invitees to have pedestrian ingress to and egress from the Residential Area along the walkways on said portion of the Land and (b) an easement along the driveways and walkways on the remaining portion of the Land for pedestrian ingress to and egress from the Commercial Area. In addition, the owners and occupants of the Commercial Area and their employees and invitees shall have an easement along the driveways on the Land for vehicular ingress to and egress from the Building. In consideration for such easement, Commercial will pay Residential seventeen percent (17%) of the costs incurred by Residential in maintaining the Land and maintaining, repairing and replacing as necessary the Exterior Improvements.

4.2 Ingress to and Egress from Top Floor for Commercial. The owners and occupants of the Commercial Area and their employees and invitees shall have an easement for pedestrian ingress and egress through the stairwells and elevator shafts in the Residential Portion of the Building and for the use of Residential's elevator cars and appurtenant equipment for transportation through said shafts for the purpose of traveling to and from the top (twenty-seventh) floor of the Building. In consideration for such easement, Commercial shall pay Residential seventeen percent (17%) of the costs incurred by Residential for the maintenance, repair and replacement as necessary of the elevator shafts, cars and appurtenant equipment owned by Residential which provide access to and from said top floor.

4.3 Basement Easement for Residential. The owners and occupants of the Residential Area and their employees and invitees shall have an exclusive easement for the use of the portion of the basement floor of the Building designated in the Declaration Plan as "Exclusive Easement Area for Residential Use" and a nonexclusive easement for pedestrian ingress and egress along and for the maintenance of the hallway of said floor extending from the entrances to the four main elevators of the Building to the entrance to said easement area.

4.4 Ground Floor Easement for Residential. The owners and occupants of the Residential Area and their employees and invitees shall have a nonexclusive easement for pedestrian ingress and egress on the ground floor of the Building through the entry to the room designated in the Declaration Plan as "Residential Lobby" and through the entries on the south side of the ground floor of the Building, as well as an easement for the use of said "Residential Lobby" and the room designated in the Declaration Plan as the "Elevator Lobby" for the purposes customarily associated with a lobby, as long as such use does not unreasonably interfere with the right of owners and occupants of the Commercial Area and their employees and invitees to have pedestrian ingress and egress through said rooms. Residential shall be responsible for the maintenance

of said entrances and rooms described in this Section 4.4 and the repair and replacement as necessary of all improvements therein.

4.5 Ingress to and Egress from Residential Area for Residential. The owners and occupants of the Residential Area and their employees and invitees shall have an easement through the stairwells and elevator shafts in the Commercial Area as necessary for ingress and egress to the Residential Area and the ground floor and basement floor of the Building.

ARTICLE V.

GENERAL PROVISIONS CONCERNING EASEMENTS

5.1 Binding Effect. The easements, benefits, obligations and duties set forth in this Agreement are perpetual, shall run with the Land and be binding upon and inure to the benefit of Residential, Commercial and their respective corporate successors, successors in title to the Premises and assigns permitted under the terms of this Agreement, but shall not give rise to any rights in or benefits for the use of the public, any public utilities or others.

5.2 Indemnification. Each party bound by this Agreement shall, to the extent any easement herein provided is used by such party, indemnify, protect and hold all parties to whose benefit this Agreement inures harmless on account of any loss, damage or expense which may arise directly or indirectly from such use, including without limitation all loss, damages and expense arising from death, personal injury, property damage and claims of laborers, materialmen and others.

5.3 Emergencies. If, at any time, any condition shall occur in the Premises which any party to whose benefit this Agreement inures shall in good faith believe to give rise to an eminent risk of loss, damage or injury, such party shall be entitled immediately to enter the area of the Premises where such condition exists for the purpose of providing emergency protection against the risk of death or injury to persons or damage to property, although when reasonably possible, any such entry shall be made only after the obtaining of permission for such entry from the owner or occupant of such area.

5.4 Self Help. If at any time circumstances arise whereby it is necessary for either Residential or Commercial to enter upon the portion of the Premises owned by the other to provide or restore a service or facility to which the party hereto so entering is entitled under the provisions hereof, the party making such entry shall not be liable for a civil or criminal trespass, but shall be liable for any damage or injury to persons or property resulting from such entry. Moreover, if either Residential or Commercial unreasonably withholds use of a service or facility to which the other is entitled under the provisions of this Agreement, the party withholding such service or facility shall be liable for and shall pay immediately upon demand the cost or expense incurred by the other party on account of such withholding.

ARTICLE VI.

UTILITIES AND OTHER SERVICES

Residential and Commercial acknowledge that to varying extents they each are dependent upon utilities and other services and facilities which either are under the control of the other or are located entirely or partially in the area of the Premises owned by the other. Thus, in accordance with Article II hereof, each agrees to make all such utilities, services and facilities owned or controlled by it available to the other at the cost of providing the same as hereinafter described. Accordingly, Residential and Commercial will make the following utilities and other services and facilities available to each other upon the following terms and subject to the following conditions:

6.1 Heating. Commercial will supply steam heat at metered cost to the Residential Area as and when needed by the occupants thereof. Commercial currently purchases steam heat from Allegheny Steam Heating Company at a metered rate. If in the future Commercial elects to make other arrangements for the providing of heating to the Building, including without limitation the installation of steam heating equipment in the Building or beneath the surface of the Land outside the Building, Commercial may do so at its election, and Commercial may thereafter, in lieu of the present arrangement, furnish heating pursuant to such other arrangements at the cost of providing the same, as long as any such installation or other arrangements do not unreasonably interfere with the use and occupancy of the Residential Area and the rights and easements granted to Residential hereunder, and as long as the rates charged for such heating do not exceed the rates therefor charged to the owners of occupants of the Commercial Area.

6.2 Electric Service. Commercial will arrange for electric service to be provided to the Residential Area at metered cost.

6.3 Water Service. Commercial will arrange for water provided by the City of Pittsburgh to be furnished to the owners and occupants of the Residential Area at metered cost.

6.4 Chilled Water. Commercial will arrange for chilled water to be provided for the owners and occupants of the Residential Area at metered cost.

6.5 Forced Air. Commercial will arrange for forced air to be furnished at cost to the Residential Area as needed for heating and cooling.

6.6 Air Exhaust. Commercial will arrange for the operation of the existing system in the Building to exhaust air from the kitchens and bathrooms in the Residential Area, and Residential will pay its share of the cost of such operation.

6.7 Incinerator Shafts and Trash Removal. Commercial will, at cost, arrange for the operation of the existing incinerator shafts in the Building and the collection and removal of trash from the Residential Area.

6.8 Exterior Maintenance. Residential will maintain the Land outside the Building and the Exterior Improvements in good condition and appearance, free from accumulations of trash, debris, ice and snow, and Commercial will pay seventeen percent (17%) of the costs incurred by Residential for such maintenance.

6.9 Cost of Services. As used in this Agreement, unless specifically provided to the contrary herein, the term "cost" with respect to any service or facility furnished by either Residential or Commercial to the other under the provisions of this Agreement shall mean the actual cost (determined by the application of generally accepted principles of accounting consistently applied) incurred by such party in furnishing the same, exclusive of any profit, but with appropriate allowance for overhead costs. To the extent that any such service is a metered utility service or private metered service, the "cost" thereof shall be the actual meter charge, properly apportioned based upon use or consumption. In the event that any such service cannot be separately metered to Residential and Commercial or for any other reason clear allocations of "cost" based upon use or consumption between Residential and Commercial cannot be determined, Residential shall pay eighty-three percent (83%) of the cost of such service or facility and Commercial shall pay seventeen percent (17%) of such cost. Said percentages are based upon the ratio of the floor area in the Building primarily used by each of said parties to the total floor area in the Building.

6.10 Payment of Costs of Services. Statements for the cost of services rendered or for facilities supplied by or on behalf of Residential or Commercial under this Agreement will be rendered monthly, and the amounts thereof shall be payable on the earlier of (a) a date which is five (5) days prior to the expiration of any discount on a utility bill representing all or a portion of such costs, or (b) fifteen (15) days after the date of the statement (or, if no such date is shown on the statement, the last date for which such cost is billed on that statement). Any statement not paid when due shall bear interest at the rate of one percent (1%) per month until paid. Neither Residential nor Commercial shall be obligated to furnish the other any service or facility for which any statement for the payment of cost is delinquent for more than sixty (60) days.

6.11 Possible Illegality. If it shall be determined that it is unlawful to supply any service for which this Agreement provides, Residential and Commercial will take such action as shall be necessary to prevent the supplying of such service hereunder from being illegal. The cost of all such action shall be allocated between Residential and Commercial on a basis of the ratio that the charge attributable to each on account of the service for the last billing period prior to the determination of the illegality bears to the total charges for the two of them for such period.

6.12 Interruptions. Neither Residential nor Commercial shall be liable for any interruption, delay or failure of any service or facility due to matters beyond the reasonable control of the parties supplying same. In the event of any such interruption, delay or failure, such party will use its best efforts promptly to effect the resumption or restoration of such service or facility.

6.13 Installation of Separate or Other Additional Facilities. No provision of this Agreement shall be construed to prohibit either Residential or Commercial from installing on the Premises separate meters with respect to services supplied by the other, or from installing on its own property separate or additional facilities. Nevertheless, neither Residential nor Commercial has or shall have a vested right to supply any service to the other. If Residential or Commercial elects to install separate facilities, such party shall, subject to the provisions of Sections 3.2 and 5.3, have

appropriate easements without cost through the property of the other for the installation and maintenance thereof.

ARTICLE VII.

MAINTENANCE, REPAIR AND IMPROVEMENT

7.1 Joint Maintenance Responsibilities. The cost of the maintenance, repair and improvement of the Premises not exclusively benefiting or serving the Commercial Area or the Residential Area shall be borne eighty-three percent (83%) by Residential and seventeen percent (17%) by Commercial. Such maintenance, repair and improvement shall be performed as follows:

(a) Commercial will maintain, repair and improve the roof of the Building as necessary.

(b) Residential will maintain, repair and improve the Land, the Exterior Improvements and the exterior of the Building as necessary.

(c) Other maintenance, repair and improvement not exclusively benefiting or serving either the Commercial Area or the Residential Area shall be performed at such times and in such manner as the owners of the area or areas affected by such maintenance, repair or improvement shall agree from time to time.

7.2 Individual Maintenance Responsibilities. Any maintenance, repair, or improvement of any portion or portions of the Premises exclusively benefiting or serving either the Residential Area or the Commercial Area shall be performed in accordance with the terms of this Agreement by and at the sole cost of the owner of the area benefited or served by such maintenance, repair or improvement, except as may be specifically provided to the contrary elsewhere in this Agreement.

ARTICLE VIII.

INSURANCE

8.1 Insurance Appraisal and Proposal.

(a) Before June 1 of each year, Commercial will obtain from a reputable appraiser a written appraisal of the maximum insurable replacement value, excluding foundation and excavation costs, or 100% of the full insurable value, whichever is greater, of the Building. Commercial shall submit such appraisal, along with a complete, written proposal for casualty, flood, public liability and property damage insurance for the Premises for the ensuing year.

(b) After Residential has examined said insurance appraisal and insurance proposal, if Residential and Commercial do not agree concerning the appraised valuation of the Building for insurance purposes or concerning the proposals relating to any Policy, Commercial and Residential shall try to resolve their differences. Nevertheless, if twenty days before the expiration of the existing insurance coverage for the Premises expires Commercial and Residential shall not have agreed on all matters concerning said Policy

and proposal, Commercial shall place insurance coverage for the Premises in such amounts, with such carriers and with such terms of coverage as Commercial shall deem to be in the best interests of Residential and Commercial.

(c) If insurance coverage is placed by Commercial as provided in the immediately preceding sentence, Commercial shall not be liable to Residential, the Association, the Council, any Unit Owner or any other party for any deficiency or defect in such coverage or in any Policy, and thereafter the matter of such coverage shall be submitted by Commercial to Frank B. Hall & Co., Inc. or another insurance brokerage firm acceptable to both Residential and Commercial, and if such broker does not approve the coverage and the Policy placed by Commercial, upon the request of Residential, the insurance coverage placed by Commercial shall be replaced in accordance with the recommendations of said underwriter.

8.2 Contents of Proposal. Each insurance proposal submitted pursuant to Section 8.1 of this Agreement shall, to the extent it provides coverage for the Association and Unit Owners, comply with the requirements of the Mortgagee Protective Agreement, and shall contain the following provisions, in addition to such other provisions as may be agreed upon by Residential and Commercial:

(a) The Policy shall insure against all direct physical loss for an amount not less than the maximum insurable replacement value, excluding foundation and excavation costs, or one hundred percent (100%) of the full insurable value, whichever is greater, of the Building (not including any betterments installed in Units by Unit Owners or contents in the Commercial Area owned by tenants), so that neither Commercial, Residential, nor any Unit Owner shall be a co-insurer with respect to any portion of any loss under a Policy.

(b) The insurer shall waive all rights of subrogation against Commercial, Residential, the Association, the Council and all Unit Owners and occupants of the Residential Area.

(c) No act or omission of Commercial, Residential, the Association, the Council or any Unit Owner shall void any Policy or be a condition to recovery thereunder.

(d) Each Policy shall permit any Unit Owner to maintain insurance in addition to the coverage provided by the Policy.

(e) If, at the time of the occurrence of any loss covered by a Policy, other insurance is carried with respect to the subject of the coverage of the Policy, the Policy shall be the primary coverage and the insurer thereunder shall not be entitled to contribution from any other carrier as a condition of the settlement of any claim under the Policy.

(f) The insurance may not be cancelled except in accordance with the terms (to the extent applicable) of the Mortgagee Protective Agreement and until after ten (10) days' prior written notice to Commercial.

(g) Commercial shall adjust all claims arising under any Policy which involve only the Commercial Area, and the Association shall be the agent to adjust all claims arising under any Policy which involve only the Residential Area. Any claim which involves both the Commercial Area and the Residential Area shall be adjusted

by both Commercial and the Association, in accordance with their respective interests, and sums payable under any Policy shall be paid to Commercial or the Association, or part to one and part to the other, in accordance with their respective interests.

8.3 Allocation of Costs. All costs reasonably incurred by Commercial in accordance with the provisions of this Article VIII shall be borne eighty-three percent (83%) by Residential and seventeen percent (17%) by Commercial. Premiums for insurance will be paid by the party to which they are billed by the insurance carrier. Commercial shall be under no obligation to advance the amount of any insurance premiums or any other amounts on behalf of Residential, but Commercial may do so to prevent any premium owed by Residential from not being paid when due. In such event, the amount advanced by Commercial shall bear interest at the rate of one percent (1%) per month until paid.

8.4 Waiver of Liability. Because Commercial's service under this Article VIII is without compensation, Commercial shall be liable to neither Residential, the Association, the Council nor the Unit Owners or any other occupants of the Residential Area for any action taken or any omission made in good faith.

8.5 Other Insurance. No provision of this Agreement shall be deemed to prohibit the obtaining of insurance coverage in addition to that described herein.

8.6 Reconstruction or Repair After Casualty. In the event of damage to or the destruction of the Improvements, the Improvements shall be repaired or reconstructed as necessary unless the Association determines in accordance with the Code of Regulations and the Declaration that the Residential Portion of the Building shall not be repaired or reconstructed. In the event of any damage to or destruction of the Improvements which is to be repaired or reconstructed, Commercial may, on behalf of Residential, obtain such estimates or other data as may be reasonably necessary to prepare for the restoration of the damaged facilities and consult with and make recommendations to Residential for the restoration of the damaged portions of the Improvements. Any costs incurred by Commercial in taking such actions shall be allocated between Residential and Commercial in proportion to the amount of casualty loss suffered by each. Any damage or destruction to the Improvements solely within the Commercial Area or the Residential Area shall be repaired by or on behalf of the owner or owners of the damaged portions as promptly as possible. Residential and Commercial shall each have an easement from the other to do all such work as is necessary to repair or reconstruct any damage to the Improvements as rapidly as possible without unreasonably interfering with the right of other owners or occupants of the Building.

ARTICLE IX.

MISCELLANEOUS

9.1 No Unlawful Use. Residential and Commercial will use and permit the Premises to be used only for lawful and proper purposes in compliance with applicable laws and regulations of all governmental authorities having jurisdiction over the Premises, and in compliance with all applicable requirements and directives of fire underwriters. Residential and Commercial will each take such action from time to time as may be necessary or desirable to effect compliance therewith, including the proper supervision and control

of employees, lessees, invitees and others. Neither Residential nor Commercial will cause or allow anything to be done to impair, jeopardize or place at risk any portion of the Improvements. If either Residential or Commercial has knowledge of any matter or thing whereby any portion of the Improvements not owned by it or any facility in any portion of the Improvements not owned by it is defective or appears to create any risk of loss, damage or injury, the party having such knowledge will promptly communicate such knowledge to the owner or occupant of the portion of the Improvements concerned, and such owner or occupant will act promptly to remedy the condition or provide protection against any such loss, damage or injury.

9.2 Condemnation. If any portion or portions of the Premises are taken by condemnation proceedings or are conveyed in lieu thereof, the party whose property is taken or conveyed shall be entitled to the total amount of the award made on account of the taking of such property.

9.3 Arbitration. Any controversy, claim or dispute between Residential or Commercial directly or indirectly concerning this Agreement, the breach hereof or the subject matter hereof, including questions concerning the scope and applicability of this section, shall be resolved by arbitration in the City of Pittsburgh, Pennsylvania, in accordance with the rules then established of the American Arbitration Association, including those for the appointment of arbitrators. Such arbitration shall constitute an exclusive remedy hereunder except as provided in Section 5.1 with respect to the enforcement of easements. The arbitrators shall have the right and authority to determine the manner of implementation or enforcement of each aspect of their decision. In the absence of the denial of a hearing, fraud, misconduct, corruption or other similar irregularity leading to an unjust, inequitable or unconscionable award, the arbitration shall be final and binding upon the parties thereto and shall not be subject to judicial review. Judgment upon such decision or award may be entered in any competent court in the Commonwealth of Pennsylvania and application may be made to such court for confirmation of such decision or award, for an order of enforcement and for any other legal remedies which may be necessary to effectuate such decision or award. Residential and Commercial hereby consent to the jurisdiction of any such court as to any matter arising out of arbitration or the enforcement thereof.

9.4 Captions. The captions used in this Agreement are inserted solely as a matter of convenience and reference and shall not be relied upon and/or used in construing the effect or meaning of any of the provisions of this Agreement.

9.5 Notices. All notices, demands and other communications required or desired under this Agreement shall be delivered in person or sent by certified mail, return receipt requested, to the party to receive notice at the address of such party set forth below by its execution hereof, or if not set forth below, at its address at the Building, or to such other address as such party may have designated from time to time, in a writing duly receipted for, to the other. All such notices, demands and other communications shall be deemed to have been given when delivered to the addressee in person in accordance with the provisions hereof or when mailed as provided above, except notices of address changes, which shall be deemed to have been given when received.

9.6 Covenants Running With the Land. In addition to the easements and their benefits referred to in Section 5.1 hereof, the covenants, agreements and undertakings of Residential and Commercial herein set forth with respect to the Premises and the use, occupancy, maintenance, repair and restoration thereof shall for all purposes shall be covenants running with the Land.

9.7 Term of Agreement. This Agreement shall remain in full force and effect until title to the Premises is vested in one person or entity or until a decision is made in accordance with the terms of this Agreement not to reconstruct the Building after the destruction thereof.

9.8 Entire Agreement. This Agreement constitutes the complete agreement between Residential and Commercial relative to the subject matter hereof.

9.9 Amendments. This Agreement may be amended, renewed, extended or cancelled only by a written agreement executed on behalf of Residential or Commercial.

9.10 Waivers and Consents. No waiver of any provision of this Agreement or consent to any departure from the provisions hereof shall in any event be effective unless evidenced by a written instrument executed by Residential and Commercial, and any such waiver or consent shall be effective only in the specific instance and for the purpose for which given. No failure or delay on the part of either party in exercising any right, power or privilege hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any right, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, power or privilege.

9.11 Partial Invalidity. If any provision of this Agreement or the application thereof to any party or circumstance is found to be invalid, such invalidity shall not affect other provisions or applications of this Agreement which can be given effect without the invalid provisions or application, and to this end the provisions of this Agreement are and shall be deemed to be severable.

9.12 Governing Law. Should any dispute or litigation arise between any of the parties whose rights or duties are affected or determined by this Agreement, such dispute or litigation shall be governed by the laws of the Commonwealth of Pennsylvania.

9.13 Relationship of Parties. No provision hereof shall be deemed to constitute either Residential or Commercial a partnership, association, joint venture, tenancy in common or other entity with the other party hereto, nor constitute either party the agent of the other party hereto except as herein expressly provided, nor in any manner limit either party in carrying on such party's respective separate businesses or activities, nor impose upon either party any liability or obligation except as herein expressly provided.

9.14 Successors and Assigns. The rights and responsibilities of Commercial under this Agreement are freely assignable, but the rights and responsibilities of Residential hereunder may not be assigned without the express, written consent of Commercial. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective corporate successors and successors in title, assigns of Commercial and assigns of Residential permitted by Commercial.

IN WITNESS WHEREOF, Residential and Commercial have executed this Agreement this 19th day of June, 1979.

Signed, sealed and delivered in the presence of:

J. Lindsay Stradley, Jr.
Donald A. Baek

GATEWAY CAPITAL, INC.

By: [Signature]
President

Attest: Sharon G. Brown
Secretary

(CORPORATE SEAL)



COMMONWEALTH OF PENNSYLVANIA

COUNTY OF ALLEGHENY

I HEREBY CERTIFY, that on this day personally appeared before me, an officer duly authorized to take acknowledgments, Robert S. Beauchamp and Sharon G. Brown, as President and Secretary, respectively, of Gateway Capital, Inc., a Georgia corporation, to me well known to be the persons described in and who executed the foregoing instrument and acknowledged the execution thereof to be their free act and deed as such officers and as the free act and deed of said corporation for the uses and purposes therein mentioned; and that they affixed thereto the official seal of said corporation.

Witness my hand and official seal in the county and state aforesaid this 19th day of June, 1979.



Wanda J. Vickery
Notary Public

My Commission Expires:

Oct 17, 1982

Signed, sealed and delivered in the presence of:

J. Lindsay Stradley, Jr.
Donald A. Baek

THREE RIVERS CAPITAL, INC.

By: [Signature]
President

Attest: Sharon G. Brown
Secretary

(CORPORATE SEAL)



COMMONWEALTH OF PENNSYLVANIA

COUNTY OF ALLEGHENY

I HEREBY CERTIFY, that on this day personally appeared before me, an officer duly authorized to take acknowledgments, Robert S. Beauchamp and Sharon G. Brown, as President and Secretary, respectively, of Three Rivers Capital, Inc., a Georgia corporation, to me well known to be the persons described in and who executed the foregoing instrument and acknowledged the execution thereof to be their free act and deed as such officers and as the free act and deed of said corporation for the uses and purposes therein mentioned; and that they affixed thereto the official seal of said corporation.

Witness my hand and official seal in the county and state aforesaid this 19th day of June, 1979.



Walter W. Wulfe
Notary Public

My Commission Expires:
Oct 19, 1982

GATEWAY TOWERS CONDOMINIUM ASSOCIATION, INC., a Pennsylvania nonprofit corporation, hereby agrees to accept all the benefits and all of the duties, responsibilities, obligations and burdens imposed upon it by the provisions of this Agreement and the exhibits attached hereto.

IN WITNESS WHEREOF, GATEWAY TOWERS CONDOMINIUM ASSOCIATION, INC. has caused these presents to be signed in its name by its proper officers and its corporate seal to be affixed this 19th day of June, 1979.

Signed, sealed and delivered in the presence of:

J. Lindsay Stradley, Jr.
John J. Drongoh Jr.

GATEWAY TOWERS CONDOMINIUM ASSOCIATION, INC.

By: [Signature]
President

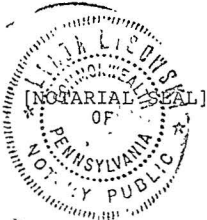
Attest: [Signature]
Secretary



COMMONWEALTH OF PENNSYLVANIA

COUNTY OF ALLEGHENY

The foregoing joinder was acknowledged before me this 19th
day of June, 1979, by Alexander C. Speyer, Jr. and
A. A. Bluestone, respectively, of Gateway Towers Condominium
Associations, Inc., a Pennsylvania nonprofit corporation, on behalf
of said corporation.



Linda Lesowski
Notary Public

My Commission Expires:

December 3, 1979

EXHIBIT "A" TO CROSS-EASEMENT,
UTILITIES SERVICES AND INSURANCE AGREEMENT

Only the surface of all that certain lot or parcel of land situate in the Second Ward of the City of Pittsburgh, Allegheny County, Pennsylvania being Lot No. 2 (hereinafter referred to as "Lot No. 2") in Gateway Plan of Lots No. 2 of record in the Office of the Recorder of Deeds of Allegheny County, Pennsylvania in Plan Book Volume 110, Pages 94, 95, 96, more particularly bounded and described, as follows:

BEGINNING at a point on the easterly side of Commonwealth Place at the dividing line between Lots Nos. 2 and 3 in said Plan; thence along the easterly side of Commonwealth Place North 18° 54' 45" West a distance of 114.04 feet to a point; thence by the arc of a circle deflecting to the right having a radius of 35 feet, an arc distance of 54.958 feet to a point on the southerly side of Fort Duquesne Boulevard, thence along the southerly side of Fort Duquesne Boulevard North 71° 03' 15" East a distance of 215.145 feet to a point on the dividing line between Lots Nos. 1 and 2 in said Plan; thence along the dividing line between Lots Nos. 1 and 2, aforesaid by the arc of a circle curving to the right having a radius of 28 feet an arc distance of 19.65 feet to a point on said dividing line; thence continuing along said dividing line South 18° 54' 45" East a distance of 131.09 feet to a point on the dividing line between Lots Nos. 2 and 3 in said Plan; thence along the dividing line between Lots Nos. 2 and 3 in said Plan South 71° 05' 15" West a distance of 256.74 feet to a point on the easterly side of Commonwealth Place at the place of beginning.

HAVING constructed on Lot No. 2, but not included as part of the Land, at 320 Fort Duquesne Boulevard, a 26-story combination commercial and residential building with basement and subbasement, known as "Gateway Towers", and having constructed underneath a portion of the surface of Lot No. 2 a part of a one-story underground parking garage.

TOGETHER WITH, a nonexclusive easement over the following described portion of Lot No. 1 in said Gateway Plan of Lots No. 2, for unobstructed light and air for the benefit of Lot No. 2, for so long as the building known as "Gateway Towers" (or any structure hereafter built to replace the same) remains standing on Lot No. 2:

BEGINNING at a point on the southerly side of Fort Duquesne Boulevard at the dividing line between Lots Nos. 1 and 2 in said Plan; thence North 71° 03' 15" East along the southerly side of Fort Duquesne Boulevard a distance of 60.62 feet to a point; thence South 18° 54' 45" East through Lot No. 1 in said Plan a distance of 149.20 feet to a point; thence South 71° 05' 15" West a distance of 54.00 feet to a point on the dividing line between Lots Nos. 1 and 2 in said Plan; thence along the dividing line between Lots Nos. 1 and 2 in said Plan, the following courses and distances:

- (1) North 18° 54' 45" West a distance of 131.09 feet to a point of curve; and
- (2) by the arc of a circle deflecting to the left having a radius of 28 feet an arc distance of 19.65 feet to a point at the place of beginning.

The aforesaid easement for light and air is subject to a certain driveway or ramp leading from Fort Duquesne Boulevard to certain underground facilities located under Lots Nos. 1, 2 and 3 in said Plan, and is further subject to all improvements and other facilities now or hereafter installed for use in connection with said ramp or driveway, including but not limited to retaining walls adjacent thereto, parapet walls surrounding three sides of said driveway or ramp, walkways, curbs, lighting facilities, traffic control devices and similar facilities subject to the perpetual right of the owner of said Lot No. 1, its successors and assigns to use and enjoy the same and to inspect, maintain, repair, remove, replace, improve, reconstruct and modify said ramp or driveway and other facilities.

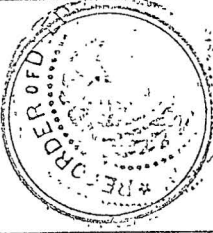
LESS AND EXCEPT from Lot No. 2, the right of The Equitable Life Assurance Society of the United States, its successors and assigns forever to enter upon the surface of that portion of Lot No. 2 described as follows from time to time for the purpose of the construction, maintenance, inspection, repair and replacement of a garage building on the surface of Lot No. 3 in said Plan:

BEGINNING at a point on the easterly side of Commonwealth Place, at the dividing line between Lots Nos. 2 and 3 in said Plan; thence along the easterly side of Commonwealth Place North $18^{\circ} 54' 45''$ West a distance of 42 feet more or less to a point on the facing of the exterior wall of the 26-story building known as "Gateway Towers"; thence North $71^{\circ} 05' 15''$ East along said facing of the exterior wall a distance of 256.74 feet more or less to a point on the line dividing Lots Nos. 1 and 2 in said Plan; thence South $18^{\circ} 54' 45''$ East a distance of 42 feet more or less to the southeasterly corner of Lot No. 2 in said Plan; thence along the dividing line between Lots Nos. 2 and 3 in said plan South $71^{\circ} 05' 15''$ West a distance of 256.74 feet to the point at the place of beginning.

REC'D
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CROSS-EASEMENT, UTILITIES SERVICES AND INSURANCE AGREEMENT <i>2-8-79</i>	GATEWAY CAPITAL INC TO THREE RIVERS CAPITAL INC.	780 MAIL TO: LAWYERS TITLE INS. CORP. 337-4 th AVE PITTSBURGH PA. 15222	P. O. Naly Co., 427 Fourth Avenue, Pittsburgh, Pa. 15219
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STATE OF PENNSYLVANIA COUNTY OF ALLEGHENY	} S.S.	
RECORDED IN THE OFFICE FOR THE RECORDING OF DEEDS, ETC. IN AND FOR THE SAID COUNTY, ON THIS <u>22nd</u> DAY OF <u>June</u> A.D. 19 <u>79</u> IN DEED BOOK VOL. <u>6122</u> PAGE <u>911</u> WITNESS MY HAND AND SEAL OF SAID OFFICE, THE DAY AND YEAR AFORESAID.		
<i>John J. Ellis</i> RECORDER		

Vol. 6122 Pl. 928