

Section 1: 8-K (FORM 8-K)

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 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) August 15, 2019

KIMCO REALTY CORPORATION
(Exact Name of registrant as specified in its charter)

Maryland
(State or other jurisdiction
of incorporation)

001-10899
(Commission File Number)

13-2744380
(IRS Employer
Identification No.)

3333 New Hyde Park Road
Suite 100
New Hyde Park, New York 11042
(Address of principal executive offices) (Zip Code)
Registrant's telephone number, including area code: **(516) 869-9000**

Not Applicable
(Former Name or Former Address, if Changed Since Last Report)

Securities registered pursuant to Section 12(b) of the Act:

<u>Title of each class</u>	<u>Trading Symbol(s)</u>	<u>Name of each exchange on which registered</u>
Common Stock, par value \$.01 per share.	KIM	New York Stock Exchange
Depository Shares, each representing one-thousandth of a share of 6.000% Class I Cumulative Redeemable, Preferred Stock, \$1.00 par value per share.	KIMprI	New York Stock Exchange
Depository Shares, each representing one-thousandth of a share of 5.500% Class J Cumulative Redeemable, Preferred Stock, \$1.00 par value per share.	KIMprJ	New York Stock Exchange
Depository Shares, each representing one-thousandth of a share of 5.625% Class K Cumulative Redeemable, Preferred Stock, \$1.00 par value per share.	KIMprK	New York Stock Exchange
Depository Shares, each representing one-thousandth of a share of 5.125% Class L Cumulative Redeemable, Preferred Stock, \$1.00 par value per share.	KIMprL	New York Stock Exchange
Depository Shares, each representing one-thousandth of a share of 5.250% Class M Cumulative Redeemable, Preferred Stock, \$1.00 par value per share.	KIMprM	New York Stock Exchange

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions:

- Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
- Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
- Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
- Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

Indicate by check mark whether the registrant is an emerging growth company as defined in Rule 405 of the Securities Act of 1933 (§230.405 of this chapter) or Rule 12b-2 of the Securities Exchange Act of 1934 (§240.12b-2 of this chapter). Emerging growth company

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 13(a) of the Exchange Act.

Item 1.01. Entry Into a Material Definitive Agreement.

On August 15, 2019, Kimco Realty Corporation (“Kimco”) entered into an underwriting agreement (the “Underwriting Agreement”) with Barclays Capital Inc., Citigroup Global Markets Inc., J.P. Morgan Securities LLC and Wells Fargo Securities, LLC, as representatives of the several underwriters (collectively, the “Underwriters”), pursuant to which Kimco agreed to sell \$350.0 million in aggregate principal amount of 3.700% Notes due 2049 (the “notes”). The notes are being offered and sold under a prospectus supplement and related prospectus filed with the Securities and Exchange Commission pursuant to Kimco’s shelf registration statement on Form S-3 (File No. 333-223226). A copy of the Underwriting Agreement is attached hereto as Exhibit 1.1 and is incorporated by reference herein. Certain of the Underwriters and their affiliates may be customers of, engage in transactions with, and perform services for Kimco and its subsidiaries in the ordinary course of business.

Item 7.01. Regulation FD Disclosure.

On August 15, 2019, the Company issued a press release (the “Press Release”) announcing (i) the pricing of its public offering of the notes discussed in Item 1.01 above, (ii) the redemption in full of its 6.000% Class I Cumulative Redeemable Preferred Stock, \$1.00 par value per share (the “Class I Preferred Stock”) and (iii) the redemption in full of its 5.625% Class K Cumulative Redeemable Preferred Stock, \$1.00 par value per share (the “Class K Preferred Stock”).

A copy of the Press Release is attached hereto as Exhibit 99.1 and is incorporated herein by reference.

The information set forth in this Item 7.01, including Exhibit 99.1, is being furnished and shall not be deemed “filed” for purposes of Section 18 of the Securities Exchange Act of 1934, as amended (the “Exchange Act”) or otherwise subject to the liabilities of that Section. The information in this Item 7.01, including Exhibit 99.1, shall not be incorporated by reference into any filing of the Company under the Securities Act of 1933, as amended, or the Exchange Act except as shall be expressly set forth by specific reference in such a filing.

Item 8.01. Other Events.

On August 15, 2019, the Company announced that it will redeem (i) all 7,000 shares of its issued and outstanding Class I Preferred Stock and all 7,000,000 depositary shares representing the Class I Preferred Stock (the “Class I Depositary Shares”) (NYSE: KIMprl – CUSIP No. 49446R 794), representing an aggregate liquidation value of \$175 million, and (ii) all 7,000 shares of its issued and outstanding Class K Preferred Stock and all 7,000,000 depositary shares representing the Class K Preferred Stock (the “Class K Depositary Shares”) (NYSE: KIMprK – CUSIP No. 49446R 745), representing an aggregate liquidation value of \$175 million, in each case on September 14, 2019 (the “Redemption Date”). The Class I Preferred Stock will be redeemed at the redemption price of \$25,000.00 per share, plus \$245.833 in accrued and unpaid dividends on each share, and the Class I Depositary Shares will be redeemed at the redemption price of \$25.00 per depositary share, plus \$0.24583 in accrued and unpaid dividends on each share. The Class K Preferred Stock will be redeemed at the redemption price of \$25,000.00 per share, plus \$230.468 in accrued and unpaid dividends on each share, and the Class K Depositary Shares will be redeemed at the redemption price of \$25.00 per depositary share, plus \$0.23047 in accrued and unpaid dividends on each share. Dividends will cease to accrue on the Class I Shares and the Class K Shares as of the Redemption Date.

Class I Depositary Shares and Class K Depositary Shares held through The Depository Trust Company, the registered holder of all of the issued outstanding Class I Depositary Shares and Class K Depositary Shares, will be redeemed in accordance with the applicable procedures of The Depository Trust Company.

Item 9.01. Financial Statements and Exhibits.

(d) Exhibits

- 1.1 [Underwriting Agreement, dated August 15, 2019, by and among Kimco Realty Corporation and Barclays Capital Inc., Citigroup Global Markets Inc., J.P. Morgan Securities LLC and Wells Fargo Securities, LLC, as representatives of the several underwriters.](#)
- 99.1 [Press Release, dated August 15, 2019.](#)
- 104 Cover Page Interactive Data File (the cover page XBRL tags are embedded within the Inline XBRL document).

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.

KIMCO REALTY CORPORATION

Date: August 16, 2019

By: /s/ Glenn G. Cohen

Name: Glenn G. Cohen

Title: Chief Financial Officer

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Section 2: EX-1.1 (EXHIBIT 1.1)

Exhibit 1.1

KIMCO REALTY CORPORATION (A MARYLAND CORPORATION)

DEBT SECURITIES

UNDERWRITING AGREEMENT

August 15, 2019

Barclays Capital Inc.
745 7th Avenue
New York, New York 10019

Citigroup Global Markets Inc.
388 Greenwich Street
New York, New York 10013

J.P. Morgan Securities LLC
383 Madison Avenue
New York, New York 10179

Wells Fargo Securities, LLC
550 South Tryon Street
Charlotte, North Carolina 28202

As Representatives of the Underwriters

Ladies and Gentlemen:

Kimco Realty Corporation, a Maryland corporation (the “*Company*”), proposes to issue and sell its unsecured senior debt securities (the “*Securities*”), from time to time, in one or more offerings on terms to be determined at the time of sale. The Securities will be issued under an indenture, dated as of September 1, 1993, as amended by the first supplemental indenture, dated as of August 4, 1994, the second supplemental indenture, dated as of April 7, 1995, the third supplemental indenture, dated as of June 2, 2006, the fourth supplemental indenture, dated as of April 26, 2007, the fifth supplemental indenture, dated as of September 24, 2009, the sixth supplemental indenture, dated as of May 23, 2013, the seventh supplemental indenture, dated as of April 24, 2014, and as further amended or supplemented from time to time (the “*Indenture*”), between the Company and The Bank of New York Mellon, as trustee (the “*Trustee*”). The Indenture has been duly qualified under the Trust Indenture Act of 1939, as amended (the “*1939 Act*”), and the rules and regulations of the Securities and Exchange Commission (the “*Commission*”) under the 1939 Act (the “*1939 Act Regulations*”). Each series of Securities may vary, as applicable, as to aggregate principal amount, maturity date, interest rate or formula and timing of payments thereof, redemption and/or repayment provisions, conversion provisions, sinking fund requirements, if any, and any other variable terms which the Indenture contemplates may be set forth in the Securities as issued from time to time. As used herein, “you” and “your,” unless the context otherwise requires, shall mean the parties to whom this Agreement is addressed together with the other parties, if any, identified in the applicable Terms Agreement (as hereinafter defined) as

additional co-managers with respect to Underwritten Securities (as hereinafter defined) purchased pursuant thereto.

Whenever the Company determines to make an offering of Securities through you or through an underwriting syndicate managed by you, the Company will enter into an agreement (the “*Terms Agreement*”) providing for the sale of such Securities (the “*Underwritten Securities*”) to, and the purchase and offering thereof by, you and such other underwriters, if any, selected by you as have authorized you to enter into such Terms Agreement on their behalf (the “*Underwriters*,” which term shall include you whether acting alone in the sale of the Underwritten Securities or as a member of an underwriting syndicate and any Underwriter substituted pursuant to Section 10 hereof). The Terms Agreement relating to the offering of Underwritten Securities shall specify the principal amount of Underwritten Securities to be initially issued, the names of the Underwriters participating in such offering (subject to substitution as provided in Section 10 hereof), the principal amount of Underwritten Securities that each such Underwriter severally agrees to purchase, the names and roles of all of the Underwriters in connection with such offering, the price at which the Underwritten Securities are to be purchased by the Underwriters from the Company, the initial public offering price, if any, of the Underwritten Securities, the Applicable Time (as defined below), any and all Issuer General Use Free Writing Prospectuses (as defined below), the time, date and place of delivery and payment, any delayed delivery arrangements and any other variable terms of the Underwritten Securities (including, but not limited to, current ratings, designations, denominations, interest rates or formulas, interest payment dates, maturity dates, conversion provisions, redemption and/or repayment provisions and sinking fund requirements applicable to the Underwritten Securities). The Terms Agreement, which shall be substantially in the form of *Exhibit A* hereto, may take the form of an exchange of any standard form of written telecommunication between you and the Company. Each offering of Underwritten Securities through you or through an underwriting syndicate managed by you will be governed by this Agreement, as supplemented by the applicable Terms Agreement.

The Company has filed with the Commission an automatic shelf registration statement on Form S-3 (No. 333-223226), including the related base prospectus (the “*base prospectus*”), for the registration of the Securities and certain other securities of the Company, which registration statement became effective upon filing under Rule 462(e) of the rules and regulations of the Commission (the “*1933 Act Regulations*”) under the Securities Act of 1933, as amended (the “*1933 Act*”). Promptly after execution and delivery of the applicable Terms Agreement, the Company will prepare and file a prospectus supplement relating to the Underwritten Securities in accordance with the provisions of Rule 430B (“*Rule 430B*”) of the 1933 Act Regulations and paragraph (b) of Rule 424 (“*Rule 424(b)*”) of the 1933 Act Regulations. Any information included in such prospectus supplement that was omitted from such registration statement at the time it became effective but that is deemed to be part of and included in such registration statement pursuant to Rule 430B is referred to as “*Rule 430B Information*.” Each base prospectus and prospectus supplement thereto, if any, used in connection with the offering of the Underwritten Securities that omitted Rule 430B Information, together with the documents incorporated by reference therein pursuant to Item 12 of Form S-3 under the 1933 Act, is herein called a “*preliminary prospectus*.” Such registration statement, at each time of effectiveness under the 1933 Act and the 1933 Act Regulations prior to the execution of the applicable Terms Agreement, including the amendments thereto to such time, the exhibits and any schedules thereto at such time, the documents incorporated by reference therein pursuant to Item 12 of Form S-3 under the 1933 Act at such time and the documents otherwise deemed to be a part thereof or included therein by the 1933 Act Regulations, is herein called the “*Registration Statement*;” *provided, however*, that the term “Registration Statement” shall be deemed to include information contained in the final prospectus supplement (the “*final prospectus supplement*”) relating to the Underwritten Securities that is retroactively deemed to be a part of such registration statement (as amended) as of the time specified in Rule 430B of the 1933 Act Regulations. The Registration Statement at the time it originally became effective is herein called the “*Original Registration Statement*.” The base prospectus and final prospectus supplement, in the form first furnished or made available to the Underwriters for use in connection with the offering of the Underwritten Securities, including the documents incorporated by reference therein pursuant to Item 12 of Form S-3 under the 1933 Act at the time of the execution of the applicable Terms Agreement and this Agreement, is herein called the “*Prospectus*.” For purposes of this Agreement, all references to the Registration Statement, any preliminary prospectus or the Prospectus or any amendment or supplement to any of the foregoing shall be deemed to include the copy filed with the Commission pursuant to its Electronic Data Gathering, Analysis and Retrieval system (“*EDGAR*”).

All references in this Agreement to financial statements and schedules and other information which is “contained,” “included” or “stated” (or other references of like import) in the Registration Statement, any preliminary prospectus or the Prospectus or any amendment or supplement thereto shall be deemed to include all such financial statements and schedules and other information which is or is deemed to be incorporated by reference in or otherwise deemed by the 1933 Act Regulations to be a part of or included in the Registration Statement, any preliminary prospectus or the Prospectus, as the case may be, and all references in this Agreement to amendments or supplements to the Registration Statement, any preliminary prospectus or the Prospectus shall be deemed to include the filing of any document under the Securities Exchange Act of 1934, as amended (the “*1934 Act*”), which is or is deemed to be incorporated by reference in or otherwise deemed by the 1933 Act Regulations to be a part of or included in the Registration Statement, such preliminary prospectus or the Prospectus, as the case may be, after the most recent effective date prior to the execution of the applicable Terms Agreement, in the case of the Registration Statement, or the respective dates of the Prospectus or any preliminary prospectus, in the case of the Prospectus and any preliminary prospectus.

Section 1. Representations and Warranties.

(a) The Company represents and warrants to you, as of the date hereof, and to you and each other Underwriter named in the applicable Terms Agreement, as of the date thereof and as of the Closing Time referred to in Section 2(b) hereof (in each case, a “*Representation Date*”), and agrees with each Underwriter, as follows:

(i) (A) At the time of filing the Original Registration Statement, (B) at the time of the most recent amendment thereto for the purposes of complying with Section 10(a)(3) of the 1933 Act (whether such amendment was by post-effective amendment, incorporated report filed pursuant to Section 13 or 15(d) of the 1934 Act or form of prospectus), (C) at the time the Company or any person acting on its behalf (within the meaning, for this clause only, of Rule 163(c) of the 1933 Act Regulations) made any offer relating to the Underwritten Securities in reliance on the exemption of Rule 163 of the 1933 Act Regulations (“*Rule 163*”) and (D) as of the date of the execution and delivery of this Agreement and the applicable Terms Agreement (the “*Execution Date*”), the Company was and is a “well-known seasoned issuer,” as defined in Rule 405 of the 1933 Act Regulations (“*Rule 405*”). The Registration Statement is an “automatic shelf registration statement,” as defined in Rule 405. The Company is and remains eligible to use the automatic shelf registration form and the Securities, since their registration on the Registration Statement, have been and remain eligible for registration by the Company on a Rule 405 “automatic shelf registration statement.” The Company has not received from the Commission any notice pursuant to Rule 401(g)(2) of the 1933 Act Regulations objecting to the use of the automatic shelf registration statement form.

At the time of filing the Original Registration Statement, at the earliest time thereafter that the Company or another offering participant (after being engaged by the Company in connection therewith) made a bona fide offer (within the meaning of Rule 164(h)(2) of the 1933 Act Regulations) of the Underwritten Securities and as of the Execution Date, the Company was not and is not an “ineligible issuer,” as defined in Rule 405.

(ii) The Original Registration Statement became effective upon filing under Rule 462(e) of the 1933 Act Regulations (“*Rule 462(e)*”) on February 27, 2015, and any post-effective amendment thereto also became effective upon filing under Rule 462(e). No stop order suspending the effectiveness of the Registration Statement has been issued under the 1933 Act and no proceedings for that purpose have been instituted or are pending or, to the knowledge of the Company, are contemplated by the Commission, and any request on the part of the Commission for additional information has been complied with.

Any offer that is a written communication relating to the Underwritten Securities made prior to the filing of the Original Registration Statement by the Company or any person acting on its behalf (within the meaning, for this paragraph only, of Rule 163(c) of the 1933 Act Regulations) has been filed with the Commission in accordance with the exemption provided by Rule 163 and otherwise complied with the requirements of Rule 163, including without limitation the legending requirement, to qualify such offer for the exemption from Section 5(c) of the 1933 Act provided by Rule 163.

At the respective times the Original Registration Statement and each amendment thereto became effective and at each deemed effective date with respect to the Underwriters pursuant to Rule 430B(f)(2) of the 1933 Act Regulations, the Registration Statement complied, complies and will comply in all material respects with the requirements of the 1933 Act, the 1933 Act Regulations, the 1939 Act and the 1939 Act Regulations, and did not, does not and will not contain an untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein not misleading.

The Prospectus and each amendment or supplement thereto, if any, at the time the Prospectus or any such amendment or supplement is issued and at the Closing Time, complied, complies and will comply in all material respects with the requirements of the 1933 Act and the 1933 Act Regulations, and neither the Prospectus nor any amendment or supplement thereto, if any, included, includes or will include an untrue statement of a material fact or omitted, omits or will omit to state a material fact necessary in order to make the statements therein, in the light of the circumstances under which they are made, not misleading.

Each preliminary prospectus (including the base prospectus filed as part of the Original Registration Statement or any amendment thereto) complied when so filed in all material respects with the 1933 Act Regulations and each preliminary prospectus and the Prospectus delivered or made available to the Underwriters for use in connection with each offering of Underwritten Securities was and will, at the time of such delivery, be identical to the electronically transmitted copies thereof filed with the Commission pursuant to EDGAR, except to the extent permitted by Regulation S-T.

As of the Applicable Time, neither (x) any Issuer General Use Free Writing Prospectus(es) (as defined below) (including a Final Term Sheet (as defined in Section 3(b))) issued at or prior to the Applicable Time or the last preliminary prospectus relating to the Underwritten Securities delivered or made available to the Underwriters prior to the Execution Date, all considered together (collectively, the “*General Disclosure Package*”), nor (y) any individual Issuer Limited Use Free Writing Prospectus, when considered together with the General Disclosure Package, included any untrue statement of a material fact or omitted to state any material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading.

As used in this subsection and elsewhere in this Agreement:

“*Applicable Time*” means such time and date as indicated in the applicable Terms Agreement.

“*Issuer Free Writing Prospectus*” means any “issuer free writing prospectus,” as defined in Rule 433 of the 1933 Act Regulations (“*Rule 433*”), relating to the Underwritten Securities that (i) is required to be filed with the Commission by the Company, (ii) is a “road show that is a written communication” within the meaning of Rule 433(d)(8)(i), whether or not required to be filed with the Commission or (iii) is exempt from filing pursuant to Rule 433(d)(5)(i) because it contains a description of the Underwritten Securities or of the offering thereof that does not reflect the final terms, in each case in the form filed or required to be filed with the Commission or, if not required to be filed, in the form retained in the Company’s records pursuant to Rule 433 (g).

“*Issuer General Use Free Writing Prospectus*” means any Issuer Free Writing Prospectus that is intended for general distribution to prospective investors, as evidenced by its being specified in Schedule A to the applicable Terms Agreement, and the Final Term Sheet.

“*Issuer Limited Use Free Writing Prospectus*” means any Issuer Free Writing Prospectus that is not an Issuer General Use Free Writing Prospectus.

Each Issuer Free Writing Prospectus, as of its date and at all subsequent times through the completion of the public offer and sale of the Underwritten Securities (which completion you shall promptly communicate to the Company) or until any earlier date that the Company notified or notifies you as described in Section 3(e), did not, does not and will not include any information that conflicted, conflicts or will conflict with the information contained in the Registration Statement or the Prospectus or any preliminary prospectus (except to the extent that information contained in an Issuer Free Writing Prospectus was intended to modify, supersede or supplement information contained in such preliminary prospectus).

The representations and warranties in this subsection shall not apply to statements in or omissions from the Registration Statement, the Prospectus or any Issuer Free Writing Prospectus made in reliance upon and in conformity with written information furnished to the Company by any Underwriter through you expressly for use therein.

(iii) The documents incorporated or deemed to be incorporated by reference in the Registration Statement, any preliminary prospectus or the Prospectus, at the time they were or hereafter are filed with the Commission, complied and will comply in all material respects with the requirements of the 1934 Act and the rules and regulations of the Commission thereunder (the “*1934 Act Regulations*”), and, when read together with the other information in the Registration Statement, any preliminary prospectus or the Prospectus, as the case may be, (a) at the time the Original Registration Statement became effective, (b) at the earlier of the time the Prospectus was first used and the date and time of the first contract of sale of Underwritten Securities and (c) at each Representation Date, did not and will not include an untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein not misleading.

(iv) The accountants who certified the financial statements, financial statement schedules and historical summaries of revenue and certain operating expenses for the properties related thereto included or incorporated by reference in the Registration Statement, the General Disclosure Package or the Prospectus are independent public accountants as required by the 1933 Act and the 1933 Act Regulations.

(v) The historical financial statements included or incorporated by reference in the Registration Statement, the General Disclosure Package or the Prospectus present fairly the financial position of the Company and its consolidated subsidiaries as at the dates indicated and the results of their operations for the periods specified; except as may otherwise be stated in the Registration Statement, the General Disclosure Package and the Prospectus, said financial statements have been prepared in conformity with generally accepted accounting principles applied on a consistent basis throughout the periods involved; and the financial statement schedules and other financial information and data included or incorporated by reference in the Registration Statement, the General Disclosure Package or the Prospectus present fairly the information required to be stated therein. The interactive data in eXtensible Business Reporting Language incorporated by reference in the Registration Statement, the General Disclosure Package and the Prospectus fairly presents the information called for in all material respects and has been prepared in accordance with the Commission's rules and guidelines applicable thereto.

(vi) The historical summaries of revenue and certain operating expenses included or incorporated by reference in the Registration Statement, the General Disclosure Package or the Prospectus, if any, present fairly the revenue and those operating expenses included in such summaries for the periods specified in conformity with generally accepted accounting principles; the pro forma financial statements included or incorporated by reference in the Registration Statement, the General Disclosure Package or the Prospectus, if any, present fairly the pro forma financial position of the Company and its consolidated subsidiaries as at the dates indicated and the pro forma results of their operations for the periods specified; and the pro forma financial statements, if any, have been prepared in conformity with generally accepted accounting principles applied on a consistent basis, the assumptions on which such pro forma financial statements have been prepared are reasonable and are set forth in the notes thereto, such pro forma financial statements have been prepared, and the pro forma adjustments set forth therein have been applied, in accordance with the applicable accounting requirements of the 1933 Act and the 1933 Act Regulations, and such pro forma adjustments have been properly applied to the historical amounts in the compilation of such statements; other than as set forth therein, the Company is not required to include any financial statements pursuant to Rule 3-05 or Rule 3-14 or pro forma financial statements in the Registration Statement, the General Disclosure Package or the Prospectus under the 1933 Act or the 1933 Act Regulations or under the 1934 Act or the 1934 Act Regulations; and all disclosures contained in the Registration Statement, the General Disclosure Package or the Prospectus, if any, regarding "non-GAAP financial measures" (as such term is defined by the rules and regulations of the Commission) comply with Regulation G under the 1934 Act and Item 10 of Regulation S-K of the 1933 Act Regulations, to the extent applicable.

(vii) Since the respective dates as of which information is given in the Registration Statement, the General Disclosure Package or the Prospectus, except as may otherwise be stated therein or contemplated thereby, (A) there has been no material adverse change in the condition, financial or otherwise, or in the earnings, business affairs or business prospects of the Company and its subsidiaries considered as one enterprise, whether or not arising in the ordinary course of business, (B) there have been no transactions or acquisitions entered into by the Company or any of its subsidiaries other than those in the ordinary course of business, which are material with respect to the Company and its subsidiaries considered as one enterprise, and (C) except for regular quarterly dividends on the Company's common stock, par value \$.01 per share, or dividends declared, paid or made in accordance with the terms of any series of the Company's preferred stock (the "*Preferred Stock*"), there has been no dividend or distribution of any kind declared, paid or made by the Company on any class of its other capital stock.

(viii) The Company has been duly incorporated and is validly existing as a corporation under the laws of Maryland and is in good standing with the State Department of Assessments and Taxation of Maryland with corporate power and authority to own, lease and operate its properties and to conduct its business as described in the Prospectus and the General Disclosure Package; and the Company is duly qualified as a foreign corporation to transact business and is in good standing in each jurisdiction in which such qualification is required, whether by reason of the ownership or leasing of property or the conduct of business, except where the failure to so qualify would not reasonably be expected to have a material adverse effect on the condition, financial or otherwise, or the earnings, business affairs or business prospects of the Company and its subsidiaries considered as one enterprise.

(ix) Each significant subsidiary (as defined in Rule 1-02 of Regulation S-X promulgated under the 1933 Act) of the Company (each, a "*Significant Subsidiary*") has been duly incorporated or organized and is validly existing as a corporation, limited partnership, limited liability company or other entity in good standing under the laws of the jurisdiction of its incorporation or organization, has the requisite power and authority to own, lease and operate its properties and to conduct its business as described in the Prospectus and the General Disclosure Package and is duly qualified as a foreign corporation, limited partnership, limited liability company or other entity to transact business and is in good standing in each jurisdiction in which such qualification is required, whether by reason of the ownership or leasing of property or the conduct of business, except where the failure to so qualify would not reasonably be expected to have a material adverse effect on the condition, financial or otherwise, or the earnings, business affairs or business prospects of the Company and its subsidiaries considered as one enterprise; and all of the issued and outstanding capital stock, partnership interest, limited liability company interest or other equity interest of each Significant Subsidiary has been duly authorized and validly issued, is fully paid and non-assessable and is owned by the Company, directly or through subsidiaries, free and clear of any security interest, mortgage, pledge, lien, encumbrance, claim or equity, except for security interests granted in respect of indebtedness of the Company or any of its subsidiaries and referred to in the Prospectus and the General Disclosure Package.

(x) The Indenture has been duly and validly authorized, executed and delivered by the Company and constitutes the valid and legally binding obligation of the Company, enforceable in accordance with its terms, except as enforcement thereof may be limited by bankruptcy, insolvency (including, without limitation, all laws relating to fraudulent transfers), reorganization, moratorium or similar laws affecting enforcement of creditors' rights generally or by general equity principles (regardless of whether enforcement is considered in a proceeding in equity or at law); and the Indenture has been duly qualified under the 1939 Act.

(xi) The Underwritten Securities being sold pursuant to the applicable Terms Agreement have been duly authorized by the Company for issuance and sale pursuant to this Agreement and, when issued, authenticated and delivered pursuant to the provisions of the Indenture, against payment of the consideration therefor specified in the applicable Terms Agreement, the Underwritten Securities will constitute valid and legally binding obligations of the Company, enforceable in accordance with their terms, except as enforcement thereof may be limited by bankruptcy, insolvency (including, without limitation, all laws relating to fraudulent transfers), reorganization, moratorium or similar laws affecting enforcement of creditors' rights generally or by general equity principles (regardless of whether enforcement is considered in a proceeding in equity or at law); the Underwritten Securities and the Indenture conform in all material respects to the respective statements relating thereto contained in the Registration Statement, the Prospectus and the General Disclosure Package and will be in substantially the respective forms filed or incorporated by reference, as the case may be, as exhibits to the Registration Statement; and the Underwritten Securities will be entitled to the benefits provided by the Indenture.

(xii) Neither the Company nor any of its subsidiaries is (A) in violation of its charter or bylaws or (B) in default in the performance or observance of any material obligation, agreement, covenant or condition contained in any contract, indenture, mortgage, loan agreement, note, lease or other instrument to which the Company or any of its subsidiaries is a party or by which it or any of them may be bound, or to which any of the property or assets of the Company or any of its subsidiaries is subject, except, in the case of clause (A) (solely as it relates to subsidiaries of the Company that are not Significant Subsidiaries) and in the case of clause (B), for any such violation or default that would not reasonably be expected to have a material adverse effect on the condition, financial or otherwise, or on the earnings, business affairs or business prospects of the Company and its subsidiaries considered as one enterprise; and the execution, delivery and performance of this Agreement, the applicable Terms Agreement or the Indenture and the consummation of the transactions contemplated herein and therein and compliance by the Company with its obligations hereunder and thereunder, have been duly authorized by all necessary corporate action and do not and will not conflict with or constitute a breach of, or default under, or result in the creation or imposition of any lien, charge or encumbrance upon any property or assets of the Company or any of its subsidiaries pursuant to any contract, indenture, mortgage, loan agreement, note, lease or other instrument to which the Company or any of its subsidiaries is a party or by which it or any of them may be bound, or to which any of the property or assets of the Company or any of its subsidiaries is subject, nor will such action result in any violation of the provisions of the charter or bylaws of the Company or any applicable law, administrative regulation or administrative or court order or decree.

(xiii) The Company has operated and intends to continue to operate in such a manner as to qualify to be taxed as a “real estate investment trust” under the Internal Revenue Code of 1986, as amended (the “*Code*”), for the taxable year in which sales of the Underwritten Securities are to occur.

(xiv) Neither the Company nor any of its subsidiaries is, and immediately after giving effect to the sale of the Underwritten Securities in accordance with this Agreement and the applicable Terms Agreement and the application of the proceeds as described in the Prospectus under the caption “Use of Proceeds,” neither the Company nor any of its subsidiaries will be, an “investment company” within the meaning of the Investment Company Act of 1940, as amended (the “*1940 Act*”).

(xv) There is no action, suit or proceeding before or by any court or governmental agency or body, domestic or foreign, now pending, or, to the knowledge of the Company, threatened, against or affecting the Company or any of its subsidiaries, which is required to be disclosed in the Registration Statement, the Prospectus or the General Disclosure Package (other than as disclosed therein), or which could reasonably be expected to result in any material adverse change in the condition, financial or otherwise, or in the earnings, business affairs or business prospects of the Company and its subsidiaries considered as one enterprise, or which could reasonably be expected to materially and adversely affect the properties or assets thereof or which could materially and adversely affect the consummation of this Agreement, the applicable Terms Agreement or the Indenture or the transactions contemplated herein or therein; all pending legal or governmental proceedings to which the Company or any of its subsidiaries is a party or of which any of its property or assets is the subject which are not described in the Registration Statement, the Prospectus and the General Disclosure Package, including ordinary routine litigation incidental to the business, are, considered in the aggregate, not material; and there are no contracts or documents of the Company or any of its subsidiaries which are required to be filed as exhibits to the Registration Statement by the 1933 Act or by the 1933 Act Regulations which have not been so filed.

(xvi) Neither the Company nor any of its subsidiaries is required to own or possess any trademarks, service marks, trade names or copyrights in order to conduct the business now operated by it, other than those the failure to possess or own would not reasonably be expected to have a material adverse effect on the condition, financial or otherwise, or on the earnings, business affairs or business prospects of the Company and its subsidiaries considered as one enterprise.

(xvii) No authorization, approval or consent of any court or governmental authority or agency is required that has not been obtained in connection with the authorization, execution, delivery or performance of the Underwritten Securities or the consummation by the Company of the transactions contemplated by this Agreement, the applicable Terms Agreement or the Indenture, except such as may be required under the 1933 Act, the 1933 Act Regulations, the 1939 Act, the 1939 Act Regulations or state securities laws or real estate syndication laws.

(xviii) The Company and its subsidiaries possess such certificates, authorities or permits issued by the appropriate state, federal or foreign regulatory agencies or bodies necessary to conduct the business now operated by them, other than those the failure to possess or own would not reasonably be expected to have a material adverse effect on the condition, financial or otherwise, or on the earnings, business affairs or business prospects of the Company and its subsidiaries considered as one enterprise, and neither the Company nor any of its subsidiaries has received any notice of proceedings relating to the revocation or modification of any such certificate, authority or permit except any, the loss of which, singly or in the aggregate, would not reasonably be expected to materially and adversely affect the condition, financial or otherwise, or the earnings, business affairs or business prospects of the Company and its subsidiaries considered as one enterprise.

(xix) The Company has full corporate power and authority to enter into this Agreement and the applicable Terms Agreement, and this Agreement has been, and as of each Representation Date, the applicable Terms Agreement will have been, duly authorized, executed and delivered by the Company.

(xx) Except as otherwise disclosed in the Registration Statement, the Prospectus and the General Disclosure Package and except as would not have a material adverse effect on the condition, financial or otherwise, or on the earnings, business affairs or business prospects of the Company and its subsidiaries considered as one enterprise: (i) all properties and assets described in the Registration Statement, the Prospectus or the General Disclosure Package are owned with good and marketable title by the Company, its subsidiaries and/or a joint venture or partnership in which any such party is a participant (a “*Related Entity*”); (ii) all of the leases under which any of the Company, its subsidiaries or, to the knowledge of the Company, Related Entities holds or uses real properties or assets as a lessee are in full force and effect, and neither the Company, nor any of its subsidiaries or, to the knowledge of the Company, Related Entities is in material default in respect of any of the terms or provisions of any of such leases and no claim has been asserted by anyone adverse to any such party’s rights as lessee under any of such leases, or affecting or questioning any such party’s right to the continued possession or use of the leased property or assets under any such leases; (iii) all liens, charges, encumbrances, claims or restrictions on or affecting the properties and assets of any of the Company, its subsidiaries or Related Entities which are required to be disclosed in the Registration Statement, the Prospectus or the General Disclosure Package are disclosed therein; (iv) neither the Company, nor any of its subsidiaries or, to the knowledge of the Company, Related Entities nor any lessee of any portion of any such party’s properties is in default under any of the leases pursuant to which any of the Company, its subsidiaries or, to the knowledge of the Company, Related Entities leases its properties and neither the Company, nor any of its subsidiaries or Related Entities knows of any event which, but for the passage of time or the giving of notice, or both, would constitute a default under any of such leases; (v) no tenant under any of the leases pursuant to which any of the Company, or its subsidiaries or, to the knowledge of the Company, Related Entities leases its properties has an option or right of first refusal to purchase the premises demised under such lease; (vi) each of the properties of any of the Company or, to the knowledge of the Company, its subsidiaries or Related Entities complies with all applicable codes and zoning laws and regulations; and (vii) neither the Company nor any of its subsidiaries has knowledge of any pending or threatened condemnation, zoning change or other proceeding or action that will in any manner affect the size of, use of, improvements on, construction on, or access to the properties of any of the Company, its subsidiaries or Related Entities.

(xxi) Title insurance in favor of the mortgagee or the Company, its subsidiaries and/or their Related Entities is maintained with respect to each shopping center property owned by any such entity in an amount at least equal to (a) the cost of acquisition of such property or (b) the cost of construction of such property (measured at the time of such construction), except, in each case, where the failure to maintain such title insurance would not reasonably be expected to have a material adverse effect on the condition, financial or otherwise, or on the earnings, business affairs or business prospects of the Company and its subsidiaries considered as one enterprise.

(xxii) The mortgages and deeds of trust encumbering the properties and assets described in the Registration Statement, the Prospectus or the General Disclosure Package are not convertible nor does any of the Company or its subsidiaries hold a participating interest therein.

(xxiii) Each of the partnership and joint venture agreements to which the Company or any of its subsidiaries is a party, and which relates to real property described in the Registration Statement, the Prospectus or the General Disclosure Package, has been duly authorized, executed and delivered by such applicable party and constitutes the valid agreement thereof, enforceable in accordance with its terms, except as limited by (a) the effect of bankruptcy, insolvency, reorganization, moratorium or other similar laws now or hereafter in effect relating to or affecting the rights or remedies of creditors or (b) the effect of general principles of equity, whether enforcement is considered in a proceeding in equity or at law, and the discretion of the court before which any proceeding therefor may be brought, and the execution, delivery and performance of any of such agreements did not, at the time of execution and delivery, and does not constitute a breach of, or default under, the charter or bylaws of such party or any material contract, lease or other instrument to which such party is a party or by which its properties may be bound or any law, administrative regulation or administrative or court order or decree.

(xxiv) None of the Company or any of its subsidiaries has any knowledge of (a) the unlawful presence of any hazardous substances, hazardous materials, toxic substances or waste materials (collectively, "*Hazardous Materials*") on any of the properties owned by it or the Related Entities, or (b) any unlawful spills, releases, discharges or disposal of Hazardous Materials that have occurred or are presently occurring off such properties as a result of any construction on or operation and use of such properties which presence or occurrence would have a material adverse effect on the condition, financial or otherwise, or on the earnings, business affairs or business prospects of the Company and its subsidiaries considered as one enterprise; and in connection with the construction on or operation and use of the properties owned by the Company, its subsidiaries and Related Entities, each of the Company and its subsidiaries represents that it has no knowledge of any material failure to comply with all applicable local, state and federal environmental laws, regulations, ordinances and administrative and judicial orders relating to the generation, recycling, reuse, sale, storage, handling, transport and disposal of any Hazardous Materials.

(xxv) The Company and each of its subsidiaries maintain a system of internal accounting controls sufficient to provide reasonable assurances that (1) transactions are executed in accordance with management's general or specific authorization; (2) transactions are recorded as necessary to permit preparation of financial statements in conformity with United States generally accepted accounting principles and to maintain accountability for assets; (3) access to assets is permitted only in accordance with management's general or specific authorization; and (4) the recorded accountability for assets is compared with the existing assets at reasonable intervals and appropriate action is taken with respect to any differences. Except as described in the Registration Statement, the Prospectus and the General Disclosure Package, since the end of the Company's most recent audited fiscal year, there has been (I) no material weakness in the Company's internal control over financial reporting (whether or not remediated) and (II) no change in the Company's internal control over financial reporting that has materially affected, or is reasonably likely to materially affect, the Company's internal control over financial reporting.

The Company and its consolidated subsidiaries employ disclosure controls and procedures that are designed to (1) ensure that information required to be disclosed by the Company in the reports that it files or submits under the 1934 Act is recorded, processed, summarized and reported, within the time periods specified in the Commission's rules and forms, and is accumulated and communicated to the Company's management, including its principal executive officer or officers and principal financial officer or officers, as appropriate, to allow timely decisions regarding disclosure; and (2) provide reasonable assurance that the interactive data in eXtensible Business Reporting Language incorporated by reference in the Registration Statement, the General Disclosure Package and the Prospectus fairly presents the information called for in all material respects and is prepared in accordance with the Commission's rules and guidelines applicable thereto.

(xxvi) There is and has been no failure on the part of the Company or any of the Company's directors or officers, in their capacities as such, to comply in all material respects with any provision of the Sarbanes-Oxley Act of 2002 and the rules and regulations promulgated in connection therewith (the "*Sarbanes-Oxley Act*"), including Section 402 related to loans and Sections 302 and 906 related to certifications.

(xxvii) The Registration Statement is not the subject of a pending proceeding or examination under Section 8(d) or 8(e) of the 1933 Act, and the Company is not the subject of a pending proceeding under Section 8A of the 1933 Act in connection with the offering of the Securities.

(xxviii) Except as disclosed in the Registration Statement, the General Disclosure Package and the Prospectus, neither the Company nor any of its subsidiaries nor, to the knowledge of the Company, any director, officer, employee or authorized agent acting on behalf of the Company or any of its subsidiaries has violated or is in violation of any provision of the Foreign Corrupt Practices Act of 1977, other than any such violations as would not reasonably be expected to have a material adverse effect on the condition, financial or otherwise, or on the earnings, business affairs or business prospects of the Company and its subsidiaries considered as one enterprise.

(xxix) (A) There has been no material security breach or incident, unauthorized access or disclosure, or other compromise of or relating to the Company's or its subsidiaries' information technology and computer systems, networks, hardware, software, data and databases (including the data and information of their respective customers, employees, suppliers, vendors and any third party data maintained, processed or stored by the Company or its subsidiaries, and any such data processed or stored by third parties on behalf of the Company or its subsidiaries), equipment or technology (collectively, "*IT Systems and Data*"); (B) neither the Company nor its subsidiaries have been notified of, and each of them have no knowledge of any event or condition that could result in, any material security breach or incident, unauthorized access or disclosure or other compromise to their IT Systems and Data and (C) the Company and its subsidiaries have implemented appropriate controls, policies, procedures, and technological safeguards to maintain and protect the integrity, continuous operation, redundancy and security of their IT Systems and Data reasonably consistent in all material respects with industry standards and practices, or as required by applicable regulatory standards.

(b) Any certificate signed by any officer of the Company and delivered to you or to counsel for the Underwriters in connection with the offering of the Underwritten Securities shall be deemed a representation and warranty by the Company to each Underwriter participating in such offering as to the matters covered thereby on the date of such certificate and, unless subsequently amended or supplemented, at each Representation Date subsequent thereto.

Section 2. Purchase and Sale.

(a) The several commitments of the Underwriters to purchase the Underwritten Securities pursuant to the applicable Terms Agreement shall be deemed to have been made on the basis of the representations and warranties herein contained and shall be subject to the terms and conditions herein set forth.

(b) Payment of the purchase price for, and delivery of, the Underwritten Securities to be purchased by the Underwriters shall be made at the office of Sidley Austin LLP, 787 Seventh Avenue, New York, New York 10019, or at such other place as shall be agreed upon by you and the Company, at 9:00 A.M., New York City time, on the tenth business day (unless postponed in accordance with the provisions of Section 10 hereof) following the date of the applicable Terms Agreement or at such other time as shall be agreed upon by you and the Company, as specified in the applicable Terms Agreement (each such time and date being referred to as a "*Closing Time*"). Unless otherwise specified in the applicable Terms Agreement, payment shall be made to the Company by wire transfer of same day funds payable to the order of the Company against delivery to you for the respective accounts of the Underwriters for the Underwritten Securities to be purchased by them. The Underwritten Securities shall be in such authorized denominations and registered in such names as you may request in writing at least one business day prior to the Closing Time. The Underwritten Securities, which may be in temporary form, will be made available for examination and packaging by you on or before the first business day prior to the Closing Time.

Section 3. Covenants of the Company. The Company covenants with you and with each Underwriter participating in the offering of Underwritten Securities, as follows:

(a) The Company, subject to Section 3(b), will comply with the requirements of Rule 430B and will notify you as soon as reasonably possible, (i) when any post-effective amendment to the Registration Statement or a new registration statement relating to the Securities shall become effective, or any amendment or supplement to the Prospectus or any preliminary prospectus shall have been filed, (ii) of the receipt of any comments from the Commission, (iii) of any request by the Commission for any amendment to the Registration Statement or the filing of a new registration statement or any amendment or supplement to the Prospectus or any preliminary prospectus or any document incorporated by reference therein or otherwise deemed to be a part thereof or for additional information, (iv) of the issuance by the Commission of any stop order suspending the effectiveness of the Registration Statement or such new registration statement or of any order preventing or suspending the use of the Prospectus or any preliminary prospectus, or of the suspension of the qualification of the Underwritten Securities for offering or sale in any jurisdiction, or of the initiation or threatening of any proceedings for any of such purposes or of any examination pursuant to Section 8(e) of the 1933 Act concerning the Registration Statement and (v) if the Company becomes the subject of a proceeding under Section 8A of the 1933 Act in connection with the offering of the Underwritten Securities or if the Company receives from the Commission a notice pursuant to Rule 401(g)(2) of the 1933 Act Regulations. The Company will effect the filings required under Rule 424(b), in the manner and within the time period required by Rule 424(b) (without reliance on Rule 424(b)(8)), and will take such steps as it deems necessary to ascertain promptly whether the form of prospectus transmitted for filing under Rule 424(b) was received for filing by the Commission and, in the event that it was not, it will promptly file such prospectus. The Company will make reasonable efforts to prevent the issuance of any stop order and, if any stop order is issued, to obtain the lifting thereof as soon as reasonably possible. The Company shall pay the required Commission filing fees relating to the Underwritten Securities within the time required by Rule 456(b)(1)(i) of the 1933 Act Regulations without regard to the proviso therein and otherwise in accordance with Rules 456(b) and 457(r) of the 1933 Act Regulations (including, if applicable, by updating the "Calculation of Registration Fee" table in accordance with Rule 456(b)(1)(ii) either in a post-effective amendment to the Registration Statement or on the cover page of a prospectus filed pursuant to Rule 424(b)).

(b) The Company will give you notice of its intention to file or prepare any amendment to the Registration Statement or a new registration statement relating to the Securities or any amendment or supplement to any preliminary prospectus (including the base prospectus included in the Original Registration Statement or amendment thereto at the time it became effective) or to the Prospectus, whether pursuant to the 1933 Act, the 1934 Act or otherwise, and the Company will furnish you with copies of any such documents a reasonable amount of time prior to such proposed filing or use, as the case may be, and will not file or use any such document to which you or counsel for the Underwriters shall reasonably object. If specified in the Terms Agreement, the Company will prepare a final term sheet (the "*Final Term Sheet*") reflecting the final terms of the Underwritten Securities, in form and substance reasonably satisfactory to the Underwriters and attached as an exhibit to the applicable Terms Agreement, and shall file such Final Term Sheet as an "issuer free writing prospectus" pursuant to Rule 433, if required, as soon as possible after the execution of such Terms Agreement.

(c) The Company has furnished or will deliver to you and counsel for the Underwriters, upon written request, signed copies of the Original Registration Statement as originally filed and any new registration statement containing the Prospectus and, in each case, any amendment thereto (including exhibits filed therewith or incorporated by reference therein and documents incorporated or deemed to be incorporated by reference therein or otherwise deemed to be a part thereof) and signed copies of all consents and certificates of experts, and will also deliver to you, upon written request, a conformed copy of the Original Registration Statement as originally filed and any new registration statement containing the Prospectus and, in each case, any amendment thereto (without exhibits) for each of the Underwriters. The copies of the Original Registration Statement and any new registration statement and, in each case, any amendment thereto furnished to the Underwriters will be identical to the electronically transmitted copies thereof filed with the Commission pursuant to EDGAR, except to the extent permitted by Regulation S-T.

(d) The Company will deliver to each Underwriter, upon written request, as many copies of each preliminary prospectus and any amendment or supplement thereto as such Underwriter reasonably requests, and the Company hereby consents to the use of such copies for purposes permitted by the 1933 Act. The Company will furnish to each Underwriter, without charge, during the period when the Prospectus is required to be delivered (or but for the exception afforded by Rule 172 of the 1933 Act Regulations would be required to be delivered) under the 1933 Act or the 1934 Act in connection with sales of the Underwritten Securities, such number of copies of the Prospectus (as amended or supplemented) as such Underwriter may reasonably request. Each preliminary prospectus and the Prospectus and any amendment or supplement thereto furnished to the Underwriters will be identical to the electronically transmitted copies thereof filed with the Commission pursuant to EDGAR, except to the extent permitted by Regulation S-T.

(e) The Company will comply with the 1933 Act and the 1933 Act Regulations, the 1934 Act and the 1934 Act Regulations and the 1939 Act and the 1939 Act Regulations so as to permit the completion of the distribution of the Underwritten Securities as contemplated in this Agreement, the applicable Terms Agreement and the Prospectus. If at any time when a prospectus is required to be delivered (or but for the exception afforded by Rule 172 of the 1933 Act Regulations would be required to be delivered) under the 1933 Act or the 1934 Act in connection with sales of the Underwritten Securities, any event shall occur or condition shall exist as a result of which it is necessary, in the opinion of counsel for the Underwriters or counsel for the Company, to amend the Registration Statement in order that the Registration Statement will not contain an untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein not misleading or amend or supplement the Prospectus or the General Disclosure Package in order that the Prospectus or the General Disclosure Package, as the case may be, will not include an untrue statement of a material fact or omit to state any material fact necessary in order to make the statements therein not misleading in the light of the circumstances existing at the time it is delivered to a purchaser, or if it shall be necessary, in the opinion of either such counsel, at any such time to amend the Registration Statement, to file a new registration statement or to amend or supplement the Prospectus or the General Disclosure Package in order to comply with the requirements of the 1933 Act or the 1933 Act Regulations (including, with respect to the filing of a new registration statement, if at any time the Company is no longer eligible to use an automatic shelf registration statement), the Company will promptly prepare and file with the Commission, subject to Section 3(b) and Section 3(k), such amendment, supplement or new registration statement as may be necessary to correct such statement or omission or to comply with such requirements, the Company will use its best efforts to have such amendment or new registration statement declared effective as soon as practicable (if it is not an automatic shelf registration statement with respect to the Underwritten Securities) and the Company will furnish to the Underwriters such number of copies of such amendment, supplement or new registration statement as the Underwriters may reasonably request. If, prior to the completion of the public offer and sale of the Underwritten Securities (which completion you shall promptly communicate to the Company), at any time following the issuance of an Issuer Free Writing Prospectus there occurred or occurs an event or development as a result of which such Issuer Free Writing Prospectus conflicted or would conflict with the information then contained in the Registration Statement (or any other registration statement relating to the Underwritten Securities) or the Prospectus or included or would include an untrue statement of a material fact or omitted or would omit to state a material fact necessary in order to make the statements therein, in the light of the circumstances prevailing at that subsequent time, not misleading, the Company will promptly (i) notify you and (ii) either (1) amend or supplement such Issuer Free Writing Prospectus to eliminate or correct such conflict, untrue statement or omission or (2) file a report with the Commission under the 1934 Act that corrects such untrue statement or omission and notify you in writing that such Issuer Free Writing Prospectus shall no longer be used.

(f) The Company will endeavor, in cooperation with the Underwriters, to qualify the Underwritten Securities for offering and sale under the applicable securities laws and real estate syndication laws of such states and other jurisdictions of the United States as you may reasonably designate. In each jurisdiction in which the Underwritten Securities have been so qualified, the Company will file such statements and reports as may be required by the laws of such jurisdiction to continue such qualification in effect for so long as may be required for the distribution of the Underwritten Securities; *provided, however*, that the Company shall not be obligated to qualify as a foreign corporation in any jurisdiction where it is not so qualified or to submit generally to service of process in any jurisdiction in which it is not already so subject.

(g) The Company will timely file such reports pursuant to the 1934 Act as are necessary in order to make generally available to its securityholders as soon as practicable an earnings statement (in form complying with the provisions of Rule 158 of the 1933 Act Regulations) for the purposes of, and to provide to the Underwriters the benefits contemplated by, the last paragraph of Section 11(a) of the 1933 Act.

(h) The Company will use its best efforts to meet the requirements to qualify as a “real estate investment trust” under the Code for the taxable year in which sales of the Underwritten Securities are to occur.

(i) The Company, during the period when a prospectus is required to be delivered (or but for the exception afforded by Rule 172 of the 1933 Act Regulations would be required to be delivered) under the 1933 Act or the 1934 Act in connection with sales of the Underwritten Securities, will file all documents required to be filed with the Commission pursuant to Section 13, 14 or 15 of the 1934 Act within the time period prescribed by the 1934 Act and the 1934 Act Regulations.

(j) The Company will not, between the date of the applicable Terms Agreement and the Closing Time with respect to the Underwritten Securities covered thereby, without your prior written consent, which shall not be unreasonably withheld, offer or sell, grant any option for the sale of, or enter into any agreement to sell prior to the Closing Time, any debt securities of the Company of the same class or series or ranking on parity with the Underwritten Securities with a maturity of more than one year (other than the Underwritten Securities which are to be sold pursuant to such Terms Agreement), except as may otherwise be provided in the applicable Terms Agreement. You may release us from the obligations of this Section 3(j) in your sole discretion at any time without notice.

(k) The Company represents and agrees that, unless it obtains your prior consent, and each Underwriter represents and agrees that, unless it obtains your prior consent and the prior consent of the Company, it has not made and will not make any offer relating to the Underwritten Securities that would constitute an “issuer free writing prospectus,” as defined in Rule 433, or that would otherwise constitute a “free writing prospectus,” as defined in Rule 405, required to be filed with the Commission; *provided, however*, that the Underwriters are authorized to use any free writing prospectus that contains substantially only information specified in the Final Term Sheet. Any such free writing prospectus consented to by the Company and you is hereinafter referred to as a “Permitted Free Writing Prospectus.” The Company represents that it has treated or agrees that it will treat each Permitted Free Writing Prospectus as an “issuer free writing prospectus,” as defined in Rule 433, and has complied and will comply with the requirements of Rule 433 applicable to each and every Permitted Free Writing Prospectus, including timely filing with the Commission where required, legending and record keeping.

(l) The date of any agreement by an Underwriter to act as principal or agent in connection with the Underwritten Securities is not more than three years subsequent to the initial effective date of the Registration Statement. If, immediately prior to the third anniversary of the initial effective date of the Registration Statement, any of such Underwritten Securities remain unsold by the applicable Underwriter(s) and a prospectus is required to be delivered by such Underwriter(s) under the 1933 Act or the 1934 Act in connection with the sale of such Underwritten Securities, the Company will prior to that third anniversary file, if it has not already done so, a new shelf registration statement or, if applicable, an automatic shelf registration statement relating to such Underwritten Securities, and, if such registration statement is not an automatic shelf registration statement, will use its reasonable best efforts to cause such registration statement to be declared effective within 180 days after that third anniversary, and will take all other reasonable actions necessary or appropriate to permit the public offering and sale of such Underwritten Securities to continue as contemplated in the expired registration statement relating to such Underwritten Securities. References herein to the “Registration Statement” shall include such new shelf registration statement or automatic shelf registration statement, as the case may be.

(m) The Company will apply the net proceeds from the sale of the Underwritten Securities as set forth under “Use of Proceeds” in the Prospectus.

Section 4. Payment of Expenses. The Company will pay all expenses incident to the performance of its obligations under this Agreement or the applicable Terms Agreement, including (i) the preparation, printing and filing of the Registration Statement as originally filed and any new registration statement containing the Prospectus and, in each case, any amendment thereto, (ii) the printing and filing of this Agreement and the applicable Terms Agreement, (iii) the preparation, issuance and delivery of the Underwritten Securities to the Underwriters, (iv) the fees and disbursements of the Company's counsel and accountants, of the Trustee and its counsel and of any applicable calculation agent or exchange rate agent, (v) the qualification of the Underwritten Securities under the applicable securities laws and real estate syndication laws in accordance with the provisions of Section 3(f), including filing fees and the reasonable fees and disbursements of counsel for the Underwriters in connection therewith and in connection with the preparation of the Blue Sky Survey and any supplement thereto, (vi) the printing and delivery to the Underwriters of copies of the Registration Statement as originally filed and any new registration statement containing the Prospectus, each preliminary prospectus, any Issuer Free Writing Prospectus and the Prospectus and any amendments or supplements thereto and any costs associated with electronic delivery of any of the foregoing by the Underwriters to investors, (vii) any fees charged by nationally recognized statistical rating organizations for the rating of the Underwritten Securities, (viii) the fees and expenses, if any, incurred with respect to the listing of the Underwritten Securities on any national securities exchange, (ix) the fees and expenses, if any, incurred with respect to any filing with the Financial Industry Regulatory Authority, Inc. ("*FINRA*"), (x) the cost of providing any CUSIP or other identification numbers for the Underwritten Securities and (xi) the fees and expenses of any depository in connection with the Underwritten Securities.

If the applicable Terms Agreement is terminated by you in accordance with the provisions of Section 5, or Section 9(b)(i) or 9(b)(iii) (only with respect to the Company's securities), the Company shall reimburse the Underwriters named in such Terms Agreement for all of their out-of-pocket expenses, including the reasonable fees and disbursements of counsel for the Underwriters.

Section 5. Conditions of Underwriters' Obligations. The several obligations of the Underwriters to purchase Underwritten Securities pursuant to the applicable Terms Agreement are subject to the accuracy of the representations and warranties of the Company herein contained, to the accuracy of the statements of the Company's officers made in any certificate pursuant to the provisions hereof, to the performance by the Company of all of its covenants and other obligations hereunder, and to the following further conditions:

(a) At the Closing Time, (i) the Registration Statement has become effective and no stop order suspending the effectiveness of the Registration Statement shall have been issued under the 1933 Act or proceedings therefor initiated or threatened by the Commission, and any request on the part of the Commission for additional information shall have been complied with to the reasonable satisfaction of counsel to the Underwriters, (ii) each preliminary prospectus and the Prospectus containing the Rule 430B Information shall have been filed with the Commission in the manner and within the time period required by Rule 424(b) without reliance on Rule 424(b)(8) (or a post-effective amendment providing such information shall have been filed and become effective in accordance with the requirements of Rule 430B), (iii) the Final Term Sheet and any other material required to be filed by the Company pursuant to Rule 433(d) of the 1933 Act Regulations shall have been filed with the Commission within the applicable time periods prescribed for such filings under such Rule 433, (iv) the Company shall have paid the required Commission filing fees relating to the Underwritten Securities within the time period required by Rule 456(b)(1)(i) of the 1933 Act Regulations without regard to the proviso therein and otherwise in accordance with Rules 456(b) and 457(r) of the 1933 Act Regulations and, if applicable, shall have updated the "Calculation of Registration Fee" table in accordance with Rule 456(b)(1)(ii) either in a post-effective amendment to the Registration Statement or on the cover page of a prospectus filed pursuant to Rule 424(b), (v) the rating assigned by any nationally recognized statistical rating organization to any debt securities or preferred stock of the Company as of the date of the applicable Terms Agreement shall not have been lowered or withdrawn since such date nor shall any such rating organization have publicly announced that it has any debt securities or preferred stock of the Company under surveillance or review and (vi) there shall not have come to your attention any facts that would cause you to believe that the Prospectus, at the time it was required to be delivered or made available to purchasers of the Underwritten Securities, included an untrue statement of a material fact or omitted to state a material fact necessary in order to make the statements therein, in light of the circumstances existing at such time, not misleading.

(b) At the Closing Time, you shall have received:

(1) The favorable opinion, dated as of the Closing Time, of Latham & Watkins LLP, counsel for the Company, in form and substance satisfactory to counsel for the Underwriters, to the effect that:

(i) Based solely on certificates from public officials, such counsel shall confirm that the Company is qualified to do business in specified states, which states the Company shall have represented to such counsel are the jurisdictions in which it owns or leases real property, except where the failure to so qualify would not reasonably be expected to have a material adverse effect on the condition, financial or otherwise, or on the earnings, business affairs or business prospects of the Company and its subsidiaries considered as one enterprise.

(ii) The Underwritten Securities, when executed, issued and authenticated in accordance with the terms of the Indenture and delivered and paid for by you in accordance with the terms of this Agreement, as supplemented by the Terms Agreement, will be the legally valid and binding obligations of the Company, enforceable against the Company in accordance with their terms.

(iii) The Indenture is the legally valid and binding agreement of the Company, enforceable against the Company in accordance with its terms.

(iv) The Indenture has been qualified under the 1939 Act.

(v) The Registration Statement has become effective under the 1933 Act. Based solely on a review, on the date of such opinion, of the Commission's website listing all stop orders issued by the Commission, such counsel shall confirm that no stop order suspending the effectiveness of the Registration Statement has been issued under the 1933 Act and no proceedings therefor have been initiated by the Commission.

(vi) The Registration Statement, at August 15, 2019, including the information deemed to be a part thereof pursuant to Rule 430B under the 1933 Act, and the Prospectus, as of its date, each appeared on their face to be appropriately responsive in all material respects to the applicable form requirements for registration statements on Form S-3 under the 1933 Act and the 1933 Act Regulations, other than Regulation S-T, the Trustee's Statement of Eligibility on Form T-1 (the "*Form T-1*") or the financial statements, schedules, or other financial data, included therein, incorporated by reference therein, or omitted therefrom, as to which such counsel need express no opinion, it being understood that in passing upon compliance as to form of the Registration Statement or the Prospectus, such counsel may assume that the statements made therein are correct and complete.

(vii) Each of the documents incorporated by reference in the Registration Statement or the Prospectus or any preliminary prospectus, as of its respective filing date, appeared on its face to be appropriately responsive in all material respects to the applicable requirements for reports on Forms 10-K, 10-Q and 8-K, and definitive proxy statements under Regulation 14A, as the case may be, under the 1934 Act and the rules and regulations of the Commission thereunder, other than Regulation S-T, the Form T-1 or the financial statements, schedules, or other financial data, included therein, incorporated by reference therein, or omitted therefrom, as to which such counsel need express no opinion. In passing upon compliance as to form of such documents, such counsel may assume that the statements made therein are correct and complete.

(viii) The statements under the captions "Description of Debt Securities" in the base prospectus and "Description of the Notes" in the preliminary prospectus and the final prospectus supplement, insofar as they purport to describe or summarize certain provisions of the Underwritten Securities or the Indenture, are accurate summaries or descriptions in all material respects.

(ix) The execution and delivery of this Agreement and the applicable Terms Agreement and the issuance and sale of the Underwritten Securities by the Company to you and the other Underwriters pursuant to this Agreement and the applicable Terms Agreement, do not on the date of such opinion (i) result in the breach of or default under any agreement or instrument listed in a schedule attached to such opinion; (ii) violate any federal or New York State statute, rule or regulation applicable to the Company; or (iii) require any consents, approvals, or authorizations to be obtained by the Company from, or any registrations, declarations or filings to be made by the Company with (in each case), any governmental authority under any federal or New York State statute, rule or regulation applicable to the Company that have not been obtained or made.

(x) The Company is not, and immediately after giving effect to the sale of the Underwritten Securities in accordance with this Agreement and the applicable Terms Agreement and the application of the proceeds as described in the Prospectus under the caption “Use of Proceeds,” will not be required to be, registered as an “investment company” within the meaning of the 1940 Act.

(xi) Commencing with the Company’s taxable year beginning January 1, 1992, the Company has been organized in conformity with the requirements for qualification as a “real estate investment trust” under the Code, and its proposed method of operation will enable it to continue to meet the requirements for qualification and taxation as a “real estate investment trust” under the Code, provided that such counsel’s opinion as to this matter may be conditioned upon (a) certain representations as to factual matters made by the Company to such counsel as described therein, and (b) an opinion of Maryland counsel regarding the enforceability of certain restrictions on ownership and transfer of shares of Company stock as set forth in the Company’s charter.

(xii) The statements set forth in Exhibit 99.1 to the Company’s Current Report on Form 8-K filed with the Commission on August 15, 2019 under the caption “United States Federal Income Tax Considerations,” insofar as they purport to summarize certain provisions of the statutes or regulations referred to therein, are accurate summaries in all material respects.

It being understood that the opinions contained in the foregoing paragraphs (xi) and (xii) will be provided in a separate opinion by Latham & Watkins LLP, counsel to the Company, regarding certain tax matters. The opinions are subject to: (i) the effect of bankruptcy, insolvency, reorganization, preference, fraudulent transfer, moratorium or other similar laws relating to or affecting the rights and remedies of creditors; (ii) the effect of general principles of equity, whether considered in a proceeding in equity or at law (including the possible unavailability of specific performance or injunctive relief), concepts of materiality, reasonableness, good faith and fair dealing, and the discretion of the court before which a proceeding is brought; (iii) the invalidity under certain circumstances under law or court decisions of provisions providing for the indemnification of or contribution to a party with respect to a liability where such indemnification or contribution is contrary to public policy; and (iv) such counsel expresses no opinion as to (a) any provision for liquidated damages, default interest, late charges, monetary penalties, make-whole premiums or other economic remedies to the extent such provisions are deemed to constitute a penalty; (b) consents to, or restrictions upon, governing law, jurisdiction, venue, arbitration, remedies, or judicial relief (except for the validity under the laws of the State of New York, but subject to mandatory choice of law rules and constitutional limitations, of provisions of the Indenture, the Officers’ Certificate pursuant to the Indenture and the form of the Underwritten Securities attached as an exhibit to the Officers’ Certificate pursuant to the Indenture which expressly choose New York as the governing law for such documents); (c) the waiver of rights or defenses contained in Section 514 of the Indenture; (d) any provision requiring the payment of attorneys’ fees, where such payment is contrary to law or public policy; (e) any provision permitting, upon acceleration of the Underwritten Securities, collection of that portion of the stated principal amount thereof which might be determined to constitute unearned interest thereon; (f) advance waivers of claims, defenses, rights granted by law, or notice, opportunity for hearing, evidentiary requirements, statutes of limitation, trial by jury or at law, or other procedural rights; (g) waivers of broadly or vaguely stated rights; (h) covenants not to compete; (i) provisions for exclusivity, election or cumulation of rights or remedies; (j) provisions authorizing or validating conclusive or discretionary determinations; (k) grants of setoff rights; (l) proxies, powers and trusts; (m) provisions prohibiting, restricting, or requiring consent to assignment or transfer of any right or property; and (n) the severability, if invalid, of provisions to the foregoing effect. No opinion or confirmation need be expressed as to federal or state securities laws (except as expressly set forth in paragraphs (iv), (v), (vi), (vii) and (x) as to federal securities laws), tax laws (except as set forth in paragraphs (xi) and (xii)), antitrust or trade regulation laws, insolvency or fraudulent transfer laws, antifraud laws, compliance with fiduciary duty requirements, pension or employee benefit laws, usury laws, environmental laws, margin regulations, FINRA rules or stock exchange rules (without limiting other laws excluded by customary practice).

(2) The favorable opinion, dated as of the Closing Time, of Venable LLP, Maryland counsel to the Company, in form and substance satisfactory to counsel for the Underwriters, to the effect that:

(i) The Company is a corporation duly incorporated and validly existing under and by virtue of the laws of the State of Maryland and is in good standing with the State Department of Assessments and Taxation of Maryland.

(ii) The Company has the corporate power to (a) own, lease and operate its properties and to conduct its business in all material respects as described in (i) the applicable preliminary prospectus supplement and applicable final prospectus supplement under the caption “Summary—Kimco Realty Corporation,” (ii) the base prospectus under the caption “The Company” and (iii) the Company’s Annual report on Form 10-K for the fiscal year ended December 31, 2018 under the caption “Item 1. Business” and (b) enter into and perform its obligations under this Agreement, the applicable Terms Agreement and the Indenture.

(iii) The execution, delivery and performance of this Agreement and the applicable Terms Agreement by the Company have been duly authorized by all requisite corporate action on the part of the Company. This Agreement and the applicable Terms Agreement have been duly executed and, so far as is known to such counsel, delivered by the Company to the Underwriters.

(iv) The execution, delivery and performance of the Indenture by the Company have been duly authorized by all requisite corporate action on the part of the Company. The Indenture has been duly executed and, so far as is known to such counsel, delivered by the Company.

(v) The execution, delivery and performance of the Underwritten Securities by the Company pursuant to this Agreement, the applicable Terms Agreement and the Indenture have been duly authorized by all necessary corporate action on the part of the Company.

(vi) The Underwritten Securities have been duly executed and, so far as is known to such counsel, delivered by the Company.

(vii) No approval, authorization or consent of any Maryland governmental authority or agency is required under any Maryland statute, rule or regulation in connection with the authorization, execution, delivery or performance by the Company of the Underwritten Securities, this Agreement, the applicable Terms Agreement or the Indenture, except those which have already been obtained, if any (except that no opinion need be expressed with respect to the application or effect of the securities law of the State of Maryland).

(viii) The execution and delivery of this Agreement and the applicable Terms Agreement do not, and the performance by the Company of the transactions contemplated hereunder and thereunder will not, (a) conflict with the charter or bylaws of the Company or (b) violate any Maryland statute, rule or regulation to which the Company is subject (other than any statute, rule or regulation in connection with the securities law of the State of Maryland, as to which no opinion need be expressed).

(3) The favorable opinion, dated as of the Closing Time, of Bruce M. Rubenstein, Esq., General Counsel of the Company, in form and substance satisfactory to counsel for the Underwriters, to the effect that to the best of his knowledge and information, there are no legal or governmental proceedings pending or threatened which are required to be disclosed in the Registration Statement, the Prospectus or the General Disclosure Package, other than those disclosed therein.

(4) The favorable opinion, dated as of the Closing Time, of Sidley Austin LLP, counsel for the Underwriters, in form and substance satisfactory to the Underwriters.

(5) In addition to giving their opinions required by subsections (b)(1) and (b)(4), respectively, of this Section 5, Latham & Watkins LLP and Sidley Austin LLP shall each additionally state (which may be in a separate letter) that nothing has come to their attention that would lead them to believe that the Original Registration Statement or any amendment thereto (except for financial statements and schedules and other financial data included or incorporated by reference therein or omitted therefrom and the Form T-1, as to which they need make no statement), at the time such Original Registration Statement or any such amendment became effective, contained an untrue statement of a material fact or omitted to state a material fact required to be stated therein or necessary to make the statements therein not misleading; that the Registration Statement, including the Rule 430B Information (except for financial statements and schedules and other financial data included or incorporated by reference therein or omitted therefrom and the Form T-1, as to which they need make no statement), at each deemed effective date with respect to the Underwriters pursuant to Rule 430B(f)(2) of the 1933 Act Regulations, contained an untrue statement of a material fact or omitted to state a material fact required to be stated therein or necessary to make the statements therein not misleading; or that the Prospectus or any amendment or supplement thereto (except for financial statements and schedules and other financial data included or incorporated by reference therein or omitted therefrom, Regulation S-T and the Form T-1, as to which they need make no statement), as of the date of the Prospectus, as of the date of any such amended or supplemented prospectus and at the Closing Time, included or includes an untrue statement of a material fact or omitted or omits to state a material fact necessary in order to make the statements therein, in light of the circumstances under which they were made, not misleading. In addition, nothing has come to their attention that would lead them to believe that the General Disclosure Package, other than the financial statements and schedules and other financial data included or incorporated by reference therein or omitted therefrom, as to which they need make no statement, as of the Applicable Time, contained any untrue statement of a material fact or omitted to state any material fact necessary in order to make the statements therein, in the light of circumstances under which they were made, not misleading. With respect to statements contained in the General Disclosure Package, any statement contained in any of the constituent documents shall be deemed to be modified or superseded to the extent that any information contained in subsequent constituent documents modifies or replaces such statement.

(6) In giving their opinions, Latham & Watkins LLP, Venable LLP, Bruce M. Rubenstein, Esq., or other counsel satisfactory to the Underwriters, and Sidley Austin LLP may rely, (1) as to matters involving the laws of the State of Maryland upon the opinion of Venable LLP (or other counsel reasonably satisfactory to counsel for the Underwriters in form and substance satisfactory to counsel for the Underwriters), (2) as to all matters of fact, upon certificates and written statements of officers and employees of and accountants for the Company, and (3) as to the qualification and good standing of the Company or any of its subsidiaries to do business in any state or jurisdiction, upon certificates of appropriate government officials or opinions of counsel in such jurisdictions.

(c) At the Closing Time, there shall not have been, since the date of the applicable Terms Agreement or since the respective dates as of which information is given in the Registration Statement, the Prospectus or the General Disclosure Package, any material adverse change in the condition, financial or otherwise, or in the earnings, business affairs or business prospects of the Company and its subsidiaries considered as one enterprise, whether or not arising in the ordinary course of business; and you shall have received a certificate of the Chief Executive Officer, the President or a Vice President of the Company and the Chief Financial Officer or Chief Accounting Officer of the Company, dated as of such Closing Time, to the effect that (i) there has been no such material adverse change; (ii) the representations and warranties in Section 1 are true and correct with the same force and effect as though made on such Closing Time; and (iii) there are no contracts, indentures, mortgages, loan agreements, notes, leases or other instruments required to be described or referred to in the Registration Statement, the General Disclosure Package or the Prospectus other than those described or referred to therein.

(d) At the time of execution of the applicable Terms Agreement, you shall have received from PricewaterhouseCoopers LLP a letter dated such date, in form and substance satisfactory to you, to the effect that (i) they are independent accountants with respect to the Company within the meaning of the 1933 Act and the 1933 Act Regulations thereunder; (ii) it is their opinion that the consolidated financial statements and financial statement schedules of the Company and the historical summaries of revenue and certain operating expenses for the properties related thereto, if any, included or incorporated by reference in the Registration Statement, the Prospectus or the General Disclosure Package and audited by them and covered by their opinions therein comply as to form in all material respects with the applicable accounting requirements of the 1933 Act and the 1933 Act Regulations; (iii) they have performed limited procedures, not constituting an audit, including a reading of the latest available unaudited interim consolidated financial statements of the Company, a reading of the minute books of the Company, inquiries of certain officials of the Company who have responsibility for financial and accounting matters and such other inquiries and procedures as may be specified in such letter, and on the basis of such limited review and procedures nothing came to their attention that caused them to believe that (A) any material modifications should be made to the unaudited financial statements and financial statement schedules of the Company included or incorporated by reference in the Registration Statement, the Prospectus or the General Disclosure Package for them to be in conformity with generally accepted accounting principles, (B) the unaudited financial statements and financial statement schedules of the Company included or incorporated by reference in the Registration Statement, the Prospectus or the General Disclosure Package, if any, do not comply as to form in all material respects with the applicable accounting requirements of the 1934 Act as it relates to Form 10-Q and the 1934 Act Regulations, (C) the unaudited operating data and balance sheet data of the Company in the Registration Statement, the Prospectus or the General Disclosure Package under the caption "Selected Consolidated Financial Data," if any, were not determined on a basis substantially consistent with that used in determining the corresponding amounts in the audited financial statements included or incorporated by reference in the Registration Statement, the Prospectus or the General Disclosure Package, (D) the unaudited pro forma condensed financial statements included in or incorporated by reference in the Company's Registration Statement, if any, do not comply as to form in all material respects with the applicable accounting requirements of Rule 11-02 of Regulation S-X under the 1933 Act or that the pro forma adjustments have not been properly applied to the historical amounts in the compilation of such statements or (E) at a specified date not more than three business days prior to the date of the applicable Terms Agreement, there has been any change in the capital stock of the Company or in the consolidated long-term debt of the Company or any decrease in the total assets or total stockholders' equity of the Company, as compared with the amounts shown in the most recent consolidated balance sheet included or incorporated by reference in the Registration Statement, the Prospectus or the General Disclosure Package or, during the period from the date of the most recent consolidated statement of operations included or incorporated by reference in the Registration Statement, the Prospectus or the General Disclosure Package to a specified date not more than three business days prior to the date of the applicable Terms Agreement, there were any decreases, as compared with the corresponding period in the preceding year, in consolidated revenues, or decrease in net income or net income per share of the Company, except in all instances for changes, increases or decreases which the Registration Statement, the Prospectus and the General Disclosure Package disclose have occurred or may occur; and (iv) in addition to the audit referred to in their opinions and the limited procedures referred to in clause (iii) above, they have carried out certain specified procedures, not constituting an audit, with respect to certain amounts, percentages and financial information which are included or incorporated by reference in the Registration Statement, the Prospectus or the General Disclosure Package and which are specified by you, and have found such amounts, percentages and financial information to be in agreement with the relevant accounting, financial and other records of the Company and its subsidiaries identified in such letter.

(e) At the Closing Time, you shall have received from PricewaterhouseCoopers LLP a letter dated as of Closing Time to the effect that they reaffirm the statements made in the letter furnished pursuant to subsection (d) of this Section, except that the “specified date” referred to shall be a date not more than three business days prior to such Closing Time.

(f) At the Closing Time, counsel for the Underwriters shall have been furnished with such documents and opinions as they may reasonably require for the purpose of enabling them to pass upon the issuance and sale of the Underwritten Securities as herein contemplated and related proceedings, or in order to evidence the accuracy of any of the representations or warranties, or the fulfillment of any of the conditions, herein contained; and all proceedings taken by the Company in connection with the issuance and sale of the Underwritten Securities as herein contemplated shall be satisfactory in form and substance to you and counsel for the Underwriters.

If any condition specified in this Section 5 shall not have been fulfilled when and as required to be fulfilled, the applicable Terms Agreement may be terminated by you by notice to the Company at any time at or prior to the Closing Time, which notice shall be confirmed in writing by the Underwriters as soon as reasonably practicable if so requested by the Company, and such termination shall be without liability of any party to any other party except as provided in Section 4 hereof and except that Sections 6, 7, 8 and 15 shall survive any such termination and remain in full force and effect.

Section 6. Indemnification.

(a) The Company agrees to indemnify and hold harmless each Underwriter, the directors and officers of each Underwriter, its affiliates, directors and officers, and each person, if any, who controls any Underwriter within the meaning of Section 15 of the 1933 Act or Section 20 of the 1934 Act as follows:

(1) against any and all loss, liability, claim, damage and expense whatsoever, as incurred, arising out of any untrue statement or alleged untrue statement of a material fact contained in the Registration Statement (or any amendment thereto), including the Rule 430B Information, or the omission or alleged omission therefrom of a material fact required to be stated therein or necessary to make the statements therein not misleading or arising out of any untrue statement or alleged untrue statement of a material fact included in any preliminary prospectus, any Issuer Free Writing Prospectus, the General Disclosure Package or the Prospectus (or any amendment or supplement thereto), or the omission or alleged omission therefrom of a material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading;

(2) against any and all loss, liability, claim, damage and expense whatsoever, as incurred, to the extent of the aggregate amount paid in settlement of any litigation, or investigation or proceeding by any governmental agency or body, commenced or threatened, or of any claim whatsoever based upon any such untrue statement or omission referred to in subsection (1) above, or any such alleged untrue statement or omission, if any such settlement is effected with the written consent of the Company;

(3) against any and all expense whatsoever (including the fees and disbursements of counsel chosen by you), as incurred, which was reasonably incurred in investigating, preparing or defending against any litigation, or any investigation or proceeding by any governmental agency or body, commenced or threatened, or any claim whatsoever based upon any such untrue statement or omission, or any such alleged untrue statement or omission, to the extent that any such expense is not paid under (1) or (2) above;

provided, however, that this indemnity agreement shall not apply to any loss, liability, claim, damage or expense to the extent arising out of any untrue statement or omission or alleged untrue statement or omission made in reliance upon and in conformity with written information furnished to the Company by any Underwriter through you expressly for use in the Registration Statement (or any amendment thereto), including the Rule 430B Information, or any preliminary prospectus, any Issuer Free Writing Prospectus or the Prospectus (or any amendment or supplement thereto) or made in reliance upon the Trustee's Statement of Eligibility filed as an exhibit to the Registration Statement.

(b) Each Underwriter severally agrees to indemnify and hold harmless the Company, its directors, each of its officers who signed the Registration Statement, and each person, if any, who controls the Company within the meaning of Section 15 of the 1933 Act or Section 20 of the 1934 Act against any and all loss, liability, claim, damage and expense described in the indemnity contained in subsection (a) of this Section, but only with respect to untrue statements or omissions, or alleged untrue statements or omissions, made in the Registration Statement (or any amendment thereto), including the Rule 430B Information, or any preliminary prospectus, any Issuer Free Writing Prospectus or the Prospectus (or any amendment or supplement thereto) in reliance upon and in conformity with written information furnished to the Company by such Underwriter through you expressly for use therein.

(c) Each indemnified party shall give notice as promptly as reasonably practicable to each indemnifying party of any action commenced against it in respect of which indemnity may be sought hereunder, but failure to so notify an indemnifying party shall not relieve such indemnifying party from any liability which it may have otherwise than on account of this indemnity agreement. An indemnifying party may participate at its own expense in the defense of such action. If it so elects within a reasonable time after receipt of such notice, an indemnifying party, jointly with any other indemnifying parties receiving such notice, may assume the defense of such action with counsel chosen by it and approved by the indemnified parties defendant in such action, unless such indemnified parties reasonably object to such assumption on the ground that there may be legal defenses available to them which are different from or in addition to those available to such indemnifying party. If an indemnifying party assumes the defense of such action, the indemnifying parties shall not be liable for any fees and expenses of counsel for the indemnified parties incurred thereunder in connection with such action. In no event shall the indemnifying parties be liable for fees and expenses of more than one counsel (in addition to any local counsel) separate from their own counsel for all indemnified parties in connection with any one action or separate but similar or related actions in the same jurisdiction arising out of the same general allegations or circumstances. No indemnifying party shall, without the prior written consent of the indemnified parties, settle or compromise or consent to the entry of any judgment with respect to any litigation, or any investigation or proceeding by any governmental agency or body, commenced or threatened, or any claim whatsoever in respect of which indemnification or contribution could be sought under this Section 6 or Section 7 hereof (whether or not the indemnified parties are actual or potential parties thereto), unless such settlement, compromise or consent (i) includes an unconditional release of each indemnified party from all liability arising out of such litigation, investigation, proceeding or claim and (ii) does not include a statement as to or an admission of fault, culpability or a failure to act by or on behalf of any indemnified party.

Section 7. Contribution. In order to provide for just and equitable contribution in circumstances in which the indemnity agreement provided for in Section 6 is for any reason held to be unenforceable by the indemnified parties although applicable in accordance with its terms, the Company and the Underwriters with respect to the offering of the Underwritten Securities shall contribute to the aggregate losses, liabilities, claims, damages and expenses of the nature contemplated by said indemnity agreement incurred by the Company and one or more of the Underwriters in respect of such offering, as incurred, in such proportions that the Underwriters are responsible for that portion represented by the percentage that the underwriting discount appearing on the cover page of the applicable prospectus supplement in respect of such offering bears to the initial public offering price appearing thereon and the Company is responsible for the balance; provided, however, that no person guilty of fraudulent misrepresentation (within the meaning of Section 11(f) of the 1933 Act) shall be entitled to contribution from any person who was not guilty of such fraudulent misrepresentation. Notwithstanding the provisions of this Section 7, no Underwriter shall be required to contribute any amount in excess of the amount by which the total price at which the Underwritten Securities purchased by it pursuant to the applicable Terms Agreement and distributed to the public were offered to the public exceeds the amount of any damages which such Underwriter has otherwise been required to pay in respect of such losses, liabilities, claims, damages and expenses. The Underwriters' obligation to contribute pursuant to this Section 7 shall be several in proportion to their respective underwriting commitments and not joint. For purposes of this Section 7, each person, if any, who controls an Underwriter within the meaning of Section 15 of the 1933 Act or Section 20 of the 1934 Act shall have the same rights to contribution as such Underwriter, and each director of the Company, each officer of the Company who signed the Registration Statement, and each person, if any, who controls the Company within the meaning of Section 15 of the 1933 Act or Section 20 of the 1934 Act shall have the same rights to contribution as the Company. The Underwriters' respective obligations to contribute pursuant to this Section 7 are several in proportion to the number of the Underwritten Securities set forth opposite their respective names in the applicable Terms Agreement and not joint.

Section 8. Representations, Warranties and Agreements to Survive Delivery. All representations, warranties and agreements contained in this Agreement or the applicable Terms Agreement, or contained in certificates of officers of the Company submitted pursuant hereto, shall remain operative and in full force and effect, regardless of any termination of this Agreement or the applicable Terms Agreement, or investigation made by or on behalf of any Underwriter or any controlling person, or by or on behalf of the Company and shall survive delivery of and payment for the Underwritten Securities.

Section 9. Termination of Agreement.

(a) This Agreement (excluding the applicable Terms Agreement) may be terminated for any reason at any time by the Company or by you upon the giving of 30 days' written notice of such termination to the other party hereto.

(b) You may also terminate the applicable Terms Agreement, by notice to the Company, at any time at or prior to the Closing Time if (i) there has been, since the date of such Terms Agreement or since the respective dates as of which information is given in the Registration Statement, the Prospectus or the General Disclosure Package, any material adverse change in the condition, financial or otherwise, or in the earnings, business affairs or business prospects of the Company and its subsidiaries considered as one enterprise, whether or not arising in the ordinary course of business, or (ii) there has occurred any material adverse change in the financial markets in the United States or in the international financial markets or any outbreak or escalation of hostilities or other national or international calamity or crisis, in the case of clause (i) or (ii) the effect of which is such as to make it, in your judgment, impracticable or inadvisable to market the Underwritten Securities or enforce contracts for the sale of the Underwritten Securities, or (iii) trading in any of the securities of the Company has been suspended or materially limited by the Commission or the New York Stock Exchange, or if trading generally on the New York Stock Exchange or in the Nasdaq Global Select Market has been suspended or materially limited, or minimum or maximum prices for trading have been fixed, or maximum ranges for prices have been required, by any of said exchanges or by such system or by order of the Commission, FINRA or any other governmental authority, or if a general banking moratorium has been declared by Federal, New York or Maryland authorities, or (iv) there has occurred a material disruption in commercial banking or securities settlement or clearance services, or (v) the rating assigned by any nationally recognized statistical rating organization to any debt securities or preferred stock of the Company as of the date of the applicable Terms Agreement shall have been lowered or withdrawn since such date or if any such rating organization shall have publicly announced that it has any debt securities or preferred stock of the Company under surveillance or review.

(c) In the event of any such termination, (x) the covenants set forth in Section 3 with respect to any offering of Underwritten Securities shall remain in effect so long as any Underwriter owns any such Underwritten Securities purchased from the Company pursuant to the applicable Terms Agreement and (y) the covenant set forth in Section 3(g) hereof, the provisions of Section 4 hereof, the indemnity and contribution agreements set forth in Sections 6 and 7 hereof, and the provisions of Sections 8 and 15 hereof shall survive such termination and remain in full force and effect.

Section 10. Default by One or More of the Underwriters. If one or more of the Underwriters shall fail at the Closing Time to purchase the Underwritten Securities which it or they are obligated to purchase under the applicable Terms Agreement (the “*Defaulted Securities*”), then you shall have the right, within 24 hours thereafter, to make arrangements for one or more of the non-defaulting Underwriters, or any other underwriters, to purchase all, but not less than all, of the Defaulted Securities in such amounts as may be agreed upon and upon the terms herein set forth; if, however, you shall not have completed such arrangements within such 24-hour period, then:

(a) if the aggregate principal amount of Defaulted Securities does not exceed 10% of the aggregate principal amount of Underwritten Securities to be purchased pursuant to such Terms Agreement, the non-defaulting Underwriters named in such Terms Agreement shall be obligated, severally and not jointly, to purchase the full amount thereof in the proportions that their respective underwriting obligations hereunder bear to the underwriting obligations of all non-defaulting Underwriters, or

(b) if the aggregate principal amount of Defaulted Securities exceeds 10% of the aggregate principal amount of Underwritten Securities to be purchased pursuant to such Terms Agreement, the applicable Terms Agreement shall terminate without liability on the part of any non-defaulting Underwriter.

No action taken pursuant to this Section shall relieve any defaulting Underwriter from liability in respect of its default under this Agreement and the applicable Terms Agreement.

In the event of any such default which does not result in a termination of the applicable Terms Agreement, either you or the Company shall have the right to postpone the Closing Time for a period not exceeding seven days in order to effect any required changes in the Registration Statement or the Prospectus or in any other documents or arrangements. As used herein, the term “Underwriter” includes any person substituted for an Underwriter under this Section 10.

Section 11. Intentionally Omitted.

Section 12. Notices. All notices and other communications hereunder shall be in writing and shall be deemed to have been duly given if mailed or transmitted by any standard form of telecommunication. Notices to the Underwriters shall be directed as follows Barclays Capital Inc., 745 7th Avenue, New York, New York, 10019, Attention: General Counsel, Facsimile 1-646-834-8133, Attention: Syndicate Registration; Citigroup Global Markets Inc., 388 Greenwich Street, New York, New York 10013, Attention: General Counsel, Facsimile: 1-646-291-1469; J.P. Morgan Securities LLC, 383 Madison Avenue, New York, New York 10179, Attention: Investment Grade Syndicate Desk, Facsimile 1-212-834-6081 and Wells Fargo Securities, LLC, 550 South Tryon Street, 5th Floor, Charlotte, North Carolina 28202, Facsimile: 1-704-410-0326 Attention: Transaction Management. Notices to the Company shall be directed to it at 3333 New Hyde Park Road, Suite 100, New Hyde Park, New York 11042-0020, attention of Bruce M. Rubenstein, Executive Vice President, Secretary and General Counsel.

Section 13. No Advisory or Fiduciary Relationship. The Company acknowledges and agrees that: (i) the purchase and sale of the Underwritten Securities pursuant to the applicable Terms Agreement and this Agreement, including the determination of the price for the Underwritten Securities and any related discounts and commissions, is an arm's-length commercial transaction between the Company, on the one hand, and the several Underwriters, on the other hand; (ii) in connection with each transaction contemplated by this Agreement and the applicable Terms Agreement and the process leading to such transaction, each Underwriter is acting solely as a principal and not as the agent or fiduciary of the Company or any of its affiliates; (iii) no Underwriter has assumed any advisory or fiduciary responsibility in favor of the Company or any of its affiliates with respect to any of the transactions contemplated by this Agreement and the applicable Terms Agreement or the process leading thereto (irrespective of whether such Underwriter has advised or is currently advising the Company or any of its affiliates on other matters) and no Underwriter has any obligation to the Company or any of its affiliates with respect to any offering of Underwritten Securities except the obligations expressly set forth in this Agreement and the applicable Terms Agreement; (iv) each Underwriter and its affiliates may be engaged in a broad range of transactions that involve interests that differ from those of the Company; (v) no Underwriter has provided any legal, accounting, regulatory or tax advice with respect to the transactions contemplated by this Agreement and the applicable Terms Agreement, and the Company has consulted its own legal and financial advisors to the extent it deemed appropriate; and (vi) any review by the Underwriters of the Company, the transactions contemplated hereby or other matters relating to such transactions will be performed solely for the benefit of the Underwriters and shall not be on behalf of the Company.

This Agreement and the applicable Terms Agreement supersede all prior agreements and understandings (whether written or oral) between the Company and the Underwriter or several Underwriters, or any of them, with respect to the subject matter hereof and thereof. The Company hereby waives and releases, to the fullest extent permitted by law, any claims that the Company may have against the Underwriter or several Underwriters with respect to any breach or alleged breach of agency or fiduciary duty.

Section 14. Parties. This Agreement and the applicable Terms Agreement shall inure to the benefit of and be binding upon you and the Company and any Underwriter who becomes a party to such Terms Agreement, and their respective successors. Nothing expressed or mentioned in this Agreement or the applicable Terms Agreement is intended or shall be construed to give any person, firm or corporation, other than those referred to in Sections 6 and 7 and their heirs and legal representatives, any legal or equitable right, remedy or claim under or in respect of this Agreement or such Terms Agreement or any provision herein or therein contained. This Agreement and the applicable Terms Agreement and all conditions and provisions hereof and thereof are intended to be for the sole and exclusive benefit of the parties hereto and thereto and their respective successors and said controlling persons and officers and directors and their heirs and legal representatives, and for the benefit of no other person, firm or corporation. No purchaser of Underwritten Securities from any Underwriter shall be deemed to be a successor by reason merely of such purchase.

Section 15. Governing Law and Time. This Agreement and the applicable Terms Agreement shall be governed by and construed in accordance with the laws of the State of New York applicable to agreements made and to be performed in said State. Specified times of day refer to New York City time.

Section 16. Waiver of Jury Trial. All parties hereby irrevocably waive, to the fullest extent permitted by applicable law, any and all right to trial by jury in any legal proceeding arising out of or relating to this Agreement or the transactions contemplated hereby.

Section 17. Counterparts. This Agreement and the applicable Terms Agreement may be executed in one or more counterparts, and if executed in more than one counterpart the executed counterparts shall constitute a single instrument.

Section 18. Recognition of the U.S. Special Resolution Regimes.

(a) In the event that any Underwriter that is a Covered Entity (as defined below) becomes subject to a proceeding under a U.S. Special Resolution Regime (as defined below), the transfer from such Underwriter of this Agreement, and any interest and obligation in or under this Agreement, will be effective to the same extent as the transfer would be effective under the U.S. Special Resolution Regime if this Agreement, and any such interest and obligation, were governed by the laws of the United States or a state of the United States.

(b) In the event that any Underwriter that is a Covered Entity or a BHC Act Affiliate (as defined below) of such Underwriter becomes subject to a proceeding under a U.S. Special Resolution Regime, Default Rights (as defined below) under this Agreement that may be exercised against such Underwriter are permitted to be exercised to no greater extent than such Default Rights could be exercised under the U.S. Special Resolution Regime if this Agreement were governed by the laws of the United States or a state of the United States.

For purposes of this Section 18, a “BHC Act Affiliate” has the meaning assigned to the term “affiliate” in, and shall be interpreted in accordance with, 12 U.S.C. § 1841(k). “Covered Entity” means any of the following: (i) a “covered entity” as that term is defined in, and interpreted in accordance with, 12 C.F.R. § 252.82(b); (ii) a “covered bank” as that term is defined in, and interpreted in accordance with, 12 C.F.R. § 47.3(b); or (iii) a “covered FSI” as that term is defined in, and interpreted in accordance with, 12 C.F.R. § 382.2(b). “Default Rights” has the meaning assigned to that term in, and shall be interpreted in accordance with, 12 C.F.R. §§ 252.81, 47.2 or 382.1, as applicable. “U.S. Special Resolution Regime” means each of (i) the Federal Deposit Insurance Act and the regulations promulgated thereunder and (ii) Title II of the Dodd-Frank Wall Street Reform and Consumer Protection Act and the regulations promulgated thereunder.

[Signature page follows]

If the foregoing is in accordance with your understanding of our agreement, please sign and return to the Company a counterpart hereof, whereupon this instrument, along with all counterparts, will become a binding agreement between you and the Company in accordance with its terms.

Very truly yours,

KIMCO REALTY CORPORATION

By: /s/ Glenn G. Cohen

Name: Glenn G. Cohen

Title: Executive Vice President, Chief
Financial Officer and Treasurer

[Signature Page to Underwriting Agreement]

If the foregoing is in accordance with your understanding of our agreement, please sign and return to the Company a counterpart hereof, whereupon this instrument, along with all counterparts, will become a binding agreement between you and the Company in accordance with its terms.

Confirmed and Accepted,
as of the date first above written:

BARCLAYS CAPITAL INC.

By: /s/ Kelly Cheng
Authorized Signatory

CITIGROUP GLOBAL MARKETS INC.

By: /s/ Adam D. Bordner
Authorized Signatory

J.P. MORGAN SECURITIES LLC

By: /s/ Robert Bottamedi
Authorized Signatory

WELLS FARGO SECURITIES, LLC

By: /s/ Carolyn Hurley
Authorized Signatory

[Signature Page to Underwriting Agreement]

KIMCO REALTY CORPORATION
(A MARYLAND CORPORATION)

[Title of Securities]

TERMS AGREEMENT

Dated:

To: Kimco Realty Corporation
3333 New Hyde Park Road
Suite 100
New Hyde Park, New York 11042-0020

Attention: Chairman of the Board of Directors

Ladies and Gentlemen:

We (the "*Representatives*") understand that Kimco Realty Corporation, a Maryland corporation (the "*Company*"), proposes to issue and sell \$ aggregate principal amount of its [Title of Debt Securities] (the "*Underwritten Securities*"). Subject to the terms and conditions set forth or incorporated by reference herein, the underwriters named below (the "*Underwriters*") offer to purchase, severally and not jointly, the respective amount of Underwritten Securities set forth below opposite their respective names at the purchase price set forth below.

<u>Underwriter</u>	Principal Amount of <u>Underwritten Securities</u>
Total	\$

The Underwritten Securities shall have the following terms:

Title of Securities:

Currency:

Principal amount to be issued:

Current ratings:

Moody's Investors Service, Inc. –

Standard & Poor's Ratings Services –

Fitch Ratings, Inc. –

Interest rate or formula:

Interest payment dates:

Stated maturity date:

Redemption and/or repayment provisions:

[Sinking fund requirements:

Minimum contract:

Maximum aggregate principal amount:

Fee: %]

Method of Offering: Fixed Price: % of principal amount plus accrued interest, if any, or
amortized original issue discount, if any, from , 20]

Variable Price

Purchase price: % of principal amount (payable in [same] [next] day funds).

Conversion provisions:

Form:

Issuer General Use Free Writing Prospectus (including the Final Term Sheet, if applicable): See Schedule A hereto.

Applicable Time:

Other terms:

Closing time, date and location:

All of the provisions contained in the Underwriting Agreement attached as Annex A hereto are hereby incorporated by reference in their entirety herein and shall be deemed to be a part of this Terms Agreement to the same extent as if such provisions had been set forth in full herein. Terms defined in such document are used herein as therein defined.

Please accept this offer no later than _____ P.M. (New York City time) on _____ by signing a copy of this Terms Agreement in the space set forth below and returning the signed copy to us.

Very truly yours,

BARCLAYS CAPITAL INC.

By: _____
Authorized Signatory

CITIGROUP GLOBAL MARKETS INC.

By: _____
Authorized Signatory

J.P. MORGAN SECURITIES LLC

By: _____
Authorized Signatory

WELLS FARGO SECURITIES, LLC

By: _____
Authorized Signatory

Accepted:

KIMCO REALTY CORPORATION

By: _____

Name: Glenn G. Cohen

Title: Executive Vice President, Chief
Financial Officer and Treasurer

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Section 3: EX-99.1 (EXHIBIT 99.1)

Exhibit 99.1



Listed on the New York Stock Exchange (KIM)

NEWS RELEASE

Kimco Realty Prices \$350 Million Aggregate Principal Amount of 3.70% Notes due 2049

– *Company Announces the Full Redemption of its \$175 Million 6.000% Class I Cumulative Redeemable Preferred Stock and its \$175 Million 5.625% Class K Cumulative Redeemable Preferred Stock* –

NEW HYDE PARK, N.Y., August 15, 2019 – Kimco Realty Corp. (NYSE: KIM), today announced the pricing of its public offering of \$350 million aggregate principal amount of 3.70% notes due 2049 (the “notes”) with an effective yield of 3.765%, maturing October 1, 2049. The offering is expected to settle on August 29, 2019, subject to customary closing conditions.

The company intends to use the net proceeds from the offering of the notes, together with borrowings under the company’s revolving credit facility, to fund (i) the full redemption of the company’s 6.000% Class I Cumulative Redeemable Preferred Stock (Class I Preferred Stock), with an aggregate liquidation value of \$175 million, and (ii) the full redemption of the company’s 5.625% Class K Cumulative Redeemable Preferred Stock (Class K Preferred Stock), with an aggregate liquidation value of \$175 million. Pending the redemption of the preferred stock, the company intends to use the net proceeds from the offering for general corporate purposes, including to reduce borrowings (of which \$135.0 million were outstanding as of June 30, 2019) under the company’s revolving credit facility. In connection with the redemption of the preferred stock, Kimco will recognize a non-cash charge of approximately \$11.4 million or \$0.03 cents per common share in the third quarter of 2019. This charge will reduce Net Income and NAREIT Funds From Operations per diluted share by the same amount but have no impact on Funds From Operations as adjusted per diluted share.

Barclays Capital Inc., Citigroup Global Markets Inc., J.P. Morgan Securities LLC, Wells Fargo Securities, LLC, BofA Securities, Inc., RBC Capital Markets, LLC and Jefferies LLC served as joint book-running managers for the notes. Deutsche Bank Securities Inc. and Regions Securities LLC served as senior co-managers for the notes. BB&T Capital Markets, a division of BB&T Securities, LLC, BNY Mellon Capital Markets, LLC, Scotia Capital (USA) Inc., and U.S. Bancorp Investments, Inc. served as co-managers for the notes.

The offering of the notes is being made pursuant to an effective shelf registration statement, prospectus and related prospectus supplement. Copies of the prospectus supplement and the base prospectus, when available, may be obtained by contacting Barclays Capital Inc., c/o Broadridge Financial Solutions, Inc., by telephone at (888) 603-5847, by e-mail: barclaysprospectus@broadridge.com or at the following address: 1155 Long Island Avenue, Edgewood, NY 11717; Citigroup Global Markets Inc., by telephone at (800) 831-9146 (toll free), by email: prospectus@citi.com or at the following address: Citigroup Global Markets Inc., c/o Broadridge Financial Solutions, 1155 Long Island Avenue, Edgewood, NY 11717; J.P. Morgan Securities LLC, by telephone at (212) 834-4533 or at the following address: 383 Madison Avenue, New York, NY 10179; Attention: Investment Grade Syndicate Desk; or Wells Fargo Securities, LLC, by telephone at (800) 645-3751 (toll free), by email: wfcustomerservice@wellsfargo.com or at the following address: 608 2nd Avenue South, Suite 1000, Minneapolis, MN 55402, Attn: WFS Customer Service. Investors may also obtain these documents for free by visiting EDGAR on the Securities and Exchange Commission’s website at www.sec.gov.

This press release shall not constitute an offer to sell or the solicitation of an offer to buy, nor shall there be any sale of these securities in any state or other jurisdiction in which such offer, solicitation or sale would be unlawful prior to registration or qualification under the securities laws of any such state or other jurisdiction.



Listed on the New York Stock Exchange (KIM)

NEWS RELEASE

Redemption of Cumulative Redeemable Preferred Stock

On August 15, 2019, the company announced that it will redeem (i) all 7,000 shares of its issued and outstanding Class I Preferred Stock and all 7,000,000 depository shares representing the Class I Preferred Stock (the “Class I Depository Shares” and, together with the Class I Preferred Stock, the “Class I Shares”) (NYSE: KIMprI – CUSIP No. 49446R 794), representing an aggregate liquidation value of \$175 million, and (ii) all 7,000 shares of its issued and outstanding Class K Preferred Stock and all 7,000,000 depository shares representing the Class K Preferred Stock (the “Class K Depository Shares” and, together with the Class K Preferred Stock, the “Class K Shares”) (NYSE: KIMprK – CUSIP No. 49446R 745), representing an aggregate liquidation value of \$175 million, in each case, on September 14, 2019 (the “Redemption Date”).

The Class I Preferred Stock will be redeemed at the redemption price of \$25,000.00 per share, plus \$245.833 in accrued and unpaid dividends on each share, and the Class I Depository Shares will be redeemed at the redemption price of \$25.00 per depository share, plus \$0.24583 in accrued and unpaid dividends on each share. The Class K Preferred Stock will be redeemed at the redemption price of \$25,000.00 per share, plus \$230.468 in accrued and unpaid dividends on each share, and the Class K Depository Shares will be redeemed at the redemption price of \$25.00 per depository share, plus \$0.23047 in accrued and unpaid dividends on each share. Dividends will cease to accrue on the Class I Shares and the Class K Shares as of the Redemption Date.

Applicable notices of redemption and related materials were mailed to holders of record of Class I Shares and Class K Shares on August 15, 2019. Class I Depository Shares and Class K Depository Shares held through The Depository Trust Company, the registered holder of all of the issued outstanding Class I Depository Shares and Class K Depository Shares, will be redeemed in accordance with the applicable procedures of The Depository Trust Company. Questions relating to the applicable notices of redemption and related materials should be directed to Equiniti Trust Company, the company’s transfer agent and the paying agent for the redemption of the Class I Shares and Class K Shares (the “Paying Agent”), at 800-468-9716. The address of the Paying Agent is Equiniti Trust Company, Attn: Corporate Actions Department, P.O. Box 64858, St. Paul, MN 55164-0858.

This press release does not constitute a notice of redemption with respect to the company’s Class I Shares or Class K Shares.

About Kimco

Kimco Realty Corp. (NYSE: KIM) is a real estate investment trust (REIT) headquartered in New Hyde Park, N.Y., that is one of North America’s largest publicly traded owners and operators of open-air shopping centers. As of June 30, 2019, the company owned interests in 428 U.S. shopping centers and mixed-use assets comprising 74.6 million square feet of leasable space primarily concentrated in the top major metropolitan markets. Publicly traded on the NYSE since 1991, and included in the S&P 500 Index, the company has specialized in shopping center acquisitions, development and management for more than 60 years.



Safe Harbor Statement

The statements in this news release state the company's and management's intentions, beliefs, expectations or projections of the future and are forward-looking statements. It is important to note that the company's actual results could differ materially from those projected in such forward-looking statements. Factors which may cause actual results to differ materially from current expectations include, but are not limited to, (i) general adverse economic and local real estate conditions, (ii) the inability of major tenants to continue paying their rent obligations due to bankruptcy, insolvency or a general downturn in their business, (iii) financing risks, such as the inability to obtain equity, debt or other sources of financing or refinancing on favorable terms to the company, (iv) the company's ability to raise capital by selling its assets, (v) changes in governmental laws and regulations and management's ability to estimate the impact of such changes, (vi) the level and volatility of interest rates and management's ability to estimate the impact thereof, (vii) risks related to the company's international operations, (viii) the availability of suitable acquisition, disposition, development and redevelopment opportunities, and risks related to acquisitions not performing in accordance with our expectations, (ix) valuation and risks related to the company's joint venture and preferred equity investments, (x) valuation of marketable securities and other investments, (xi) increases in operating costs, (xii) changes in the dividend policy for the company's common and preferred stock and the company's ability to pay dividends at current levels, (xiii) the reduction in the company's income in the event of multiple lease terminations by tenants or a failure by multiple tenants to occupy their premises in a shopping center, (xiv) impairment charges and (xv) unanticipated changes in the company's intention or ability to prepay certain debt prior to maturity and/or hold certain securities until maturity. Additional information concerning factors that could cause actual results to differ materially from those forward-looking statements is contained from time to time in the company's SEC filings. Copies of each filing may be obtained from the company or the SEC.

The company refers you to the documents filed by the company from time to time with the SEC, specifically the section titled "Risk Factors" in the company's Annual Report on Form 10-K for the year ended December 31, 2018, as may be updated or supplemented in the company's Quarterly Reports on Form 10-Q and the company's other filings with the SEC, which discuss these and other factors that could adversely affect the company's results. The company disclaims any intention or obligation to update the forward-looking statements, whether as a result of new information, future events or otherwise.

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CONTACT:

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Kimco Realty Corporation
1-866-831-4297

dbujnicki@kimcorealty.com

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