

EXHIBIT 1

LOAN AGREEMENT

Dated as of October 31, 2006

Between

**THE ENTITIES SET FORTH ON THE SIGNATURE PAGE
TO THIS LOAN AGREEMENT,
collectively, as Borrower**

and

**COLUMN FINANCIAL, INC.,
as Lender**

FIXED RATE MULTIPLE PROPERTY LOAN

Fee Simple Interest in the properties commonly known as (i) Dove Landing East located at 800-817 Broadmeadows Court, Virginia Beach, Virginia; (ii) Dove Landing Beach (Apple Orchard) located at 4800-4808 Apple Orchard Court, Virginia Beach, Virginia; (iii) Dove Landing Beach (Maple Terrace) located at 4700-4708 Maple Terrace Court, Virginia Beach, Virginia; (iv) Dove Landing Baltic located at 2201 Baltic Avenue, Virginia Beach, Virginia; (v) Dove Landing Point located at 3038 Sewells Point, Norfolk, Virginia; (vi) Dove Landing West located at 5609-5620 Baker Court, Virginia Beach, Virginia; (vii) Dove Landing Plaza located at 3340-3346 Shasta Court, Virginia Beach, Virginia; (viii) Dove Landing North (Justin Court) located at 5301-5328 Justin Court, Virginia Beach, Virginia; (ix) Dove Landing Pharah located at 866 Broadmeadows Court, Virginia Beach, Virginia; (x) Bluffs at Castle Rock, 483 Scott Boulevard, Castle Rock, Colorado; (xi) Club Creek, 502 Longspur Boulevard West, Austin, Texas; (xii) Palm Harbor, 2100 S. Conway Road, Orlando, Florida; (xiii) Pepperhill, 3211 Mountainbrook Avenue, Charleston, South Carolina; (xiv) Wildwood, 7610 Cameron Road, Austin, Texas; (xv) Centerpoint East, 15490 East Center Avenue, Aurora, Colorado; (xvi) Sierra Village, 5416 & 5350 Jackson Street, Sacramento, California; (xvii) Oak Hollow, 4407 Oak Hollow Drive, Sacramento, California; (xviii) Palmetto, 7501 Peppercorn Lane, Charleston, South Carolina; (xix) Village at Riverside, 1500 Crossing Place, Austin, Texas; and (xx) Woodchase, 100 Chase Common Drive, Norcross, Georgia.

Loan Amount: \$179,784,800.00

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LOAN AGREEMENT

THIS LOAN AGREEMENT, dated as of October 31, 2006 (as amended, restated, replaced, supplemented or otherwise modified from time to time, this "Agreement"), between COLUMN FINANCIAL, INC., having an address at 11 Madison Avenue, New York, New York 10010 (together with its successors and/or assigns, "Lender"), and by THE ENTITIES SET FORTH ON THE SIGNATURE PAGE TO THIS AGREEMENT, each having its principal place of business at 12100 Wilshire Boulevard, Suite 250, Los Angeles, California 90025 (jointly and severally, collectively, "Borrower").

WITNESSETH:

WHEREAS, Borrower desires to obtain the Loan (as hereinafter defined) from Lender;

WHEREAS, Lender is willing to make the Loan to Borrower, subject to and in accordance with the terms of this Agreement and the other Loan Documents (as hereinafter defined);

NOW THEREFORE, in consideration of the making of the Loan by Lender and the covenants, agreements, representations and warranties set forth in this Agreement, the parties hereto hereby covenant, agree, represent and warrant as follows:

I. DEFINITIONS; PRINCIPLES OF CONSTRUCTION

Section 1.1. **Definitions.** For all purposes of this Agreement, except as otherwise expressly required or unless the context clearly indicates a contrary intent:

"Additional Insolvency Opinion" shall have the meaning set forth in Section 4.1.30(c) hereof.

"Adjusted Release Amount" shall mean the lesser of (i) the outstanding principal balance of the Loan and (ii) (X) for the Pharah Property, the Beach Maple Terrace Property and the Baltic Property, one hundred percent (100%) of the Release Amount for each such Individual Property, and (Y) for all other Individual Properties, one hundred twenty percent (120%) of the Release Amount for each such Individual Property.

"Affiliate" shall mean, as to any Person, any other Person that, directly or indirectly, is in Control of, is Controlled by or is under common Control with such Person or is a director (other than an Independent Director or an Independent Manager, as applicable) or officer of such Person or of an Affiliate of such Person.

"Affiliated Manager" shall mean any Manager in which Borrower, Principal, or any Guarantor has, directly or indirectly, any legal, beneficial or economic interest.

"ALTA" shall mean American Land Title Association, or any successor thereto.

"Annual Budget" shall mean the operating budget, including all planned Capital Expenditures, for the Property prepared by Borrower or Manager for the applicable Fiscal Year or other period.

"Approved Annual Budget" shall have the meaning set forth in Section 5.1.11(d) hereof.

"Approved Bank" shall mean a bank or other financial institution which has a minimum long term unsecured debt rating of at least "A" by S&P and Fitch and "A2" by Moody's.

"Asset Management Agreement" shall mean the asset management agreement entered into by and between Borrower and Asset Manager, pursuant to which the Asset Manager is to provide certain management and other services with respect to the Property.

"Asset Manager" shall mean Brentwood Asset Management & Advisory Group LLC, a California limited liability company, or, if the context requires, a Qualified Manager who is managing the Property in accordance with the terms and provisions of this Agreement.

"Assignment of Asset Management Agreement" shall mean that certain Assignment of Asset Management Agreement and Subordination of Asset Management Fees, dated as of the date hereof, among Lender, Borrower and Asset Manager, as the same may be amended, restated, replaced, supplemented or otherwise modified from time to time.

"Assignment of Leases" shall mean with respect to each Individual Property that certain first priority Assignment of Leases and Rents, dated as of the date hereof, from Borrower's interest in and to the leases and Rents of such Individual Property as security for the Loan, as the same may be amended, restated, replaced, supplemented or otherwise modified from time to time.

"Assignment of Management Agreement" shall mean individually and collectively, those certain Assignments of Management Agreements and Subordination of Management Fees, dated as of the date hereof, among Lender, Borrower and the applicable Manager, as the same may be amended, restated, replaced, supplemented or otherwise modified from time to time.

"Award" shall mean any compensation paid by any Governmental Authority in connection with a Condemnation with respect to all or any part of any Individual Property.

"Bankruptcy Action" shall mean with respect to any Person (a) such Person filing a voluntary petition under the Bankruptcy Code or any other Federal or state bankruptcy or insolvency law; (b) the filing of an involuntary petition against such Person under the Bankruptcy Code or any other Federal or state bankruptcy or insolvency law in which such Person colludes with, or otherwise assists such Person, or soliciting or causing to be solicited, petitioning creditors for any involuntary petition against such Person; (c) such Person filing an answer consenting to or otherwise acquiescing in or joining in any involuntary petition filed

against it, by any other Person under the Bankruptcy Code or any other Federal or state bankruptcy or insolvency law; (d) such Person consenting to or acquiescing in or joining in an application for the appointment of a custodian, receiver, trustee, or examiner for such Person or any portion of the Property; or (e) such Person making an assignment for the benefit of creditors, or admitting, in writing or in any legal proceeding, its insolvency or inability to pay its debts as they become due.

"Bankruptcy Code" shall mean 11 U.S.C. §101 et seq., as the same may be amended from time to time.

"Baltic Property" shall mean the Baltic Land, as more particularly described in the Individual Mortgage with respect thereto, the Improvements thereon and all personal property owned by Dove Landing VA Portfolio IV, LLC and encumbered by such Individual Mortgage, together with all rights pertaining to such Land and Improvements, all as more particularly described in the Granting Clauses of such Individual Mortgage.

"Basic Carrying Costs" shall mean, for any period, with respect to each Individual Property, the sum of the following costs associated with such Individual Property for such period: (a) Taxes, (b) Other Charges and (c) Insurance Premiums.

"Beach Maple Terrace Property" shall mean the Beach Maple Terrace Beach Land, as more particularly described in the Individual Mortgage with respect thereto, the Improvements thereon and all personal property owned by Dove Landing VA Portfolio III, LLC and encumbered by such Individual Mortgage, together with all rights pertaining to such Land and Improvements, all as more particularly described in the Granting Clauses of such Individual Mortgage.

"Borrower" shall have the meaning set forth in the introductory paragraph hereto, together with its successors and permitted assigns.

"Borrower Remainder Account" shall have the meaning ascribed to such term in the Cash Management Agreement.

"Business Day" shall mean any day other than a Saturday, Sunday or any other day on which national banks in New York, New York are not open for business.

"Calculated Payments" shall mean the monthly payments of interest which would be due based on the principal amount of the Loan being prepaid on the Prepayment Date and assuming an interest rate per annum equal to the difference (if such difference is greater than zero) between (A) the Interest Rate minus (B) the Yield Maintenance Treasury Rate

"Capital Expenditures" shall mean, for any period, the amount expended for items capitalized under GAAP (including expenditures for building improvements or major repairs, leasing commissions and tenant improvements).

"Cash Expenses" shall mean, for any period, the Operating Expenses for the operation of the Property as set forth in an Approved Annual Budget (other than those items for which Borrower is reimbursed or those items funded from the Reserve Funds, if any) to the

extent that such expenses are actually incurred by Borrower minus any payments into the Tax and Insurance Escrow Fund.

"Cash Management Account" shall have the meaning set forth in Section 2.6.2(a) hereof.

"Cash Management Agreement" shall mean those certain Cash Management Agreements, dated as of the date hereof, by and among Borrower, the applicable Manager and Lender, as the same may be amended, restated, replaced, supplemented or otherwise modified from time to time.

"Casualty" shall have the meaning set forth in Section 6.2 hereof.

"Casualty Consultant" shall have the meaning set forth in Section 6.4(b)(iii) hereof.

"Casualty Retainage" shall have the meaning set forth in Section 6.4(b)(iv) hereof.

"Closing Date" shall mean the date of the funding of the Loan.

"Code" shall mean the Internal Revenue Code of 1986, as amended, as it may be further amended from time to time, and any successor statutes thereto, and applicable U.S. Department of Treasury regulations issued pursuant thereto in temporary or final form.

"Condemnation" shall mean a temporary or permanent taking by any Governmental Authority as the result or in lieu or in anticipation of the exercise of the right of condemnation or eminent domain, of all or any part of any Individual Property, or any interest therein or right accruing thereto, including any right of access thereto or any change of grade affecting such Individual Property or any part thereof.

"Condemnation Proceeds" shall have the meaning set forth in Section 6.4(b) hereof.

"Control" shall mean the possession, directly or indirectly, of the power to direct or cause the direction of management, policies or activities of a Person, whether through ownership of voting securities, by contract or otherwise. "Controlled" and "Controlling" shall have correlative meanings.

"Covered Disclosure Information" shall have the meaning set forth in Section 9.2(b) hereof.

"Credit Suisse" shall mean Credit Suisse Securities (USA) LLC and its successors in interest.

"Debt" shall mean the outstanding principal amount set forth in, and evidenced by, this Agreement and the Note together with all interest accrued and unpaid thereon and all

other sums (including the Yield Maintenance Premium) due to Lender in respect of the Loan under the Note, this Agreement, the Mortgages and the other Loan Documents.

"Debt Service" shall mean, with respect to any particular period of time, scheduled principal, if any, and/or interest payments due under this Agreement, the Note and the Mezzanine Loans.

"Debt Service Coverage Ratio" shall mean a ratio as calculated by Lender for the applicable period in which:

(a) the numerator is the Net Operating Income (excluding interest on credit accounts) for the twelve (12) calendar month period immediately preceding the date of determination; and

(b) the denominator is equal to the sum of:

(i) the aggregate amount of interest that would be due and payable on the Loan for the twelve (12) month period immediately following such date of determination, using a debt service constant based upon an interest rate equal to Eight and One-Half Percent (8.50%) for the Loan for such period, plus

(ii) the aggregate amount of interest that would be due and payable on the Mezzanine A Loan for the twelve (12) month period immediately following such date of determination, using a debt service constant based upon an interest rate equal to Eight and One-Half Percent (8.50%) for the Mezzanine Loan A for such period, plus

(iii) the aggregate amount of interest that would be due and payable on the Mezzanine B Loan for the twelve (12) month period immediately following such date of determination, using a debt service constant based upon an interest rate equal to Eight and One-Half Percent (8.50%) for the Mezzanine B Loan for such period, plus

(iv) the aggregate amount of interest that would be due and payable on the Mezzanine Loan C for the twelve (12) month period immediately following such date of determination, using a debt service constant based upon an interest rate equal to Eight and One-Half Percent (8.50%) for the Mezzanine C Loan for such period.

"Default" shall mean the occurrence of any event hereunder or under any other Loan Document which, but for the giving of notice or passage of time, or both, would be an Event of Default.

"Default Determination Ratio" shall have the meaning set forth in Section 9.3 hereof.

"Default Rate" shall mean a rate per annum equal to the lesser of (a) the Maximum Legal Rate and (b) four percent (4%) above the Interest Rate.

"Defeasance Date" shall have the meaning set forth in Section 2.5.1(a)(i) hereof.

"**Defeasance Deposit**" shall mean an amount equal to the remaining principal amount of the Note (or, if in connection of a release of an Individual Property, the Adjusted Release Amount with respect to such Individual Property), the Yield Maintenance Premium, any costs and expenses incurred or to be incurred in the purchase of U.S. Obligations necessary to meet the Scheduled Defeasance Payments and any revenue, documentary stamp or intangible taxes or any other tax or charge due in connection with the transfer of the Note or otherwise required to accomplish the agreements of Sections 2.4 and 2.5 hereof.

"**Defeasance Event**" shall have the meaning set forth in Section 2.5.1(a) hereof.

"**Defeasance Lockout Date**" shall mean the date that is two (2) years from the "startup day" within the meaning of Section 860G(a)(9) of the Code for the REMIC Trust.

"**Disclosure Document**" shall mean a prospectus, prospectus supplement, private placement memorandum, or similar offering memorandum or offering circular, or other offering documents or marketing materials, in each case in preliminary or final form, used to offer Securities in connection with a Securitization.

"**Discount Rate**" shall mean the rate which, when compounded monthly, is equivalent to the Prepayment Treasury Rate when compounded semi-annually.

"**DSCR Determination Date**" shall have the meaning set forth in Section 9.3 hereof.

"**Eligible Account**" shall mean a separate and identifiable account from all other funds held by the holding institution that is either (a) an account or accounts maintained with a federal or state-chartered depository institution or trust company which complies with the definition of Eligible Institution or (b) a segregated trust account or accounts maintained with a federal or state chartered depository institution or trust company acting in its fiduciary capacity which, in the case of a state chartered depository institution or trust company, is subject to regulations substantially similar to 12 C.F.R. §9.10(b), having in either case a combined capital and surplus of at least \$50,000,000 and subject to supervision or examination by federal and state authority. An Eligible Account will not be evidenced by a certificate of deposit, passbook or other instrument.

"**Eligible Institution**" shall mean a depository institution or trust company, insured by the Federal Deposit Insurance Corporation, the short term unsecured debt obligations or commercial paper of which are rated at least "A-1+" by S&P, "P-1" by Moody's and "F-1+" by Fitch in the case of accounts in which funds are held for thirty (30) days or less (or, in the case of accounts in which funds are held for more than thirty (30) days, the long term unsecured debt obligations of which are rated at least "AA" by Fitch and S&P and "Aa2" by Moody's).

"**Embargoed Person**" shall have the meaning set forth in Section 4.1.35 hereof.

"**Environmental Indemnity**" shall mean that certain Environmental Indemnity Agreement, dated as of the date hereof, executed by Borrower and Guarantor in connection with the Loan for the benefit of Lender, as the same may be amended, restated, replaced, supplemented or otherwise modified from time to time.

"ERISA" shall mean the Employee Retirement Income Security Act of 1974, as amended.

"Event of Default" shall have the meaning set forth in Section 8.1(a) hereof.

"Excess Cash Flow" shall have the meaning set forth in Section 2.6.2(b) hereof.

"Exchange Act" shall have the meaning set forth in Section 9.2(a) hereof.

"Exchange Act Filing" shall have the meaning set forth in Section 5.1.11(f) hereof.

"Extraordinary Expense" shall have the meaning set forth in Section 5.1.11(e) hereof.

"Fee Termination Ratio" shall have the meaning set forth in Section 9.5(b) hereof.

"Fiscal Year" shall mean each twelve (12) month period commencing on January 1 and ending on December 31 during each year of the term of the Loan.

"Fitch" shall mean Fitch, Inc., Duff & Phelps.

"Foreign Taxes" shall have the meaning set forth in Section 2.2.3(e) hereof.

"GAAP" shall mean (i) generally accepted accounting principles in the United States of America as of the date of the applicable financial report or (ii) other sound accounting principles consistently applied and reasonably acceptable to Lender.

"Governmental Authority" shall mean any court, board, agency, commission, office or other authority of any nature whatsoever for any governmental unit (federal, state, county, district, municipal, city or otherwise) whether now or hereafter in existence.

"Gross Income from Operations" shall mean, for any period, all sustainable income, computed in accordance with GAAP or a cash basis of accounting consistently applied, derived from the ownership and operation of the Properties from whatever source during such period, including, but not limited to, Rents (other than tenant security deposits unless Borrower has a right to retain such security deposits pursuant to the terms of the applicable Lease) from tenants in occupancy and paying full contractual rent without right of offset or credit; utility charges, escalations, forfeited security deposits; interest on credit accounts, service fees or charges, license fees, parking fees, rent concessions or credits, business interruption or other loss of income or rental insurance proceeds or other required pass-throughs, reimbursements paid by tenants under the Leases of any nature and interest on Reserve Funds, if any, but excluding Rents from month-to-month tenants or tenants that are included in any Bankruptcy Action, sales, use and occupancy or other taxes on receipts required to be accounted for by Borrower to any Governmental Authority, refunds and uncollectible accounts, sales of furniture, fixtures and equipment, Insurance Proceeds and Condemnation Proceeds (other than business interruption or

other loss of income or rental insurance), and any disbursements to Borrower from the Reserve Funds, if any.

"Guarantor" shall mean Richard J. Nathan, a natural person.

"Guaranty" shall mean that certain Guaranty Agreement, dated as of the date hereof, from Guarantor to Lender, as the same may be amended, restated, replaced, supplemented or otherwise modified from time to time.

"Improvements" shall have the meaning set forth in the granting clause of the related Mortgage with respect to each Individual Property.

"Indebtedness" of a Person, at a particular date, means the sum (without duplication) at such date of (a) all indebtedness or liability of such Person (including, without limitation, amounts for borrowed money and indebtedness in the form of mezzanine debt and preferred equity); (b) obligations evidenced by bonds, debentures, notes, or other similar instruments; (c) obligations for the deferred purchase price of property or services (including trade obligations); (d) obligations under letters of credit; (e) obligations under acceptance facilities; (f) all guaranties, endorsements (other than for collection or deposit in the ordinary course of business) and other contingent obligations to purchase, to provide funds for payment, to supply funds, to invest in any Person or entity, or otherwise to assure a creditor against loss; and (g) obligations secured by any Liens, whether or not the obligations have been assumed.

"Indemnified Person" shall have the meaning set forth in Section 9.2(b) hereof.

"Indemnifying Person" shall mean each of Borrower, Principal and Guarantor.

"Independent Director" or "Independent Manager" shall mean a Person who is not at the time of initial appointment, or at any time while serving as a director or manager, as applicable, and has not been at any time during the preceding five (5) years: (a) a stockholder, director (with the exception of serving as the Independent Director or Independent Manager), officer, employee, partner, member, attorney or counsel of the Principal, the Borrower or any Affiliate of either of them; (b) a customer, supplier or other person who derives any of its purchases or revenues from its activities with the Principal, any Individual Borrower or any Affiliate of either of them; (c) a Person Controlling or under common Control with any such stockholder, director, officer, partner, member, customer, supplier or other Person; or (d) a member of the immediate family of any such stockholder, director, officer, employee, partner, member, customer, supplier or other person.

"Individual Borrower" shall mean any one of the twenty (20) entities listed on the signature page attached hereto.

"Individual Property" shall mean each parcel of real property, the Improvements thereon and all personal property owned by an Individual Borrower and encumbered by the applicable Mortgage, together with all rights pertaining to such property and Improvements, as more particularly described in the Granting Clauses of such Mortgage and referred to therein as the "Property." For purposes of clarification, the real property constituting a part of an

Individual Borrower's Individual Property has the street address corresponding to such Individual Borrower on Schedule VII attached hereto.

"Initial Insurance Payment" shall have the meaning ascribed to such term in Section 7.2 hereof.

"Initial Replacement Payment" shall have the meaning ascribed to such term in Section 7.3.1 hereof.

"Initial Tax Payment" shall have the meaning ascribed to such term in Section 7.2 hereof.

"Insolvency Opinion" shall mean that certain non-consolidation opinion letter delivered by Steckbauer Weinhart Jaffe, LLP in connection with the Loan.

"Insurance Premiums" shall have the meaning set forth in Section 6.1(b) hereof.

"Insurance Proceeds" shall have the meaning set forth in Section 6.4(b) hereof.

"Interest Accrual Period" shall mean, with respect to any Payment Date, the period commencing on the eleventh (11th) day of the preceding calendar month and terminating on the tenth (10th) day of the calendar month in which such Payment Date occurs; provided, however, that no Interest Period shall end later than the Maturity Date (other than for purposes of calculating interest at the Default Rate), and the initial Interest Period shall begin on the Closing Date and shall end on the immediately following tenth (10th) day of the calendar month.

"Interest Rate" shall mean a rate of Seven and Three Hundred Ninety-Three One Thousandths Percent (7.393%) per annum.

"Lease" shall mean any lease, sublease or subsublease, letting, license, concession or other agreement (whether written or oral and whether now or hereafter in effect) pursuant to which any Person is granted a possessory interest in, or right to use or occupy all or any portion of any space in any Individual Property, and (a) every modification, amendment or other agreement relating to such lease, sublease, subsublease, or other agreement entered into in connection with such lease, sublease, subsublease, or other agreement and (b) every guarantee of the performance and observance of the covenants, conditions and agreements to be performed and observed by the other party thereto.

"Legal Requirements" shall mean, with respect to each Individual Property, all federal, state, county, municipal and other governmental statutes, laws, rules, orders, regulations, ordinances, judgments, decrees and injunctions of Governmental Authorities affecting such Individual Property or any part thereof, or the construction, use, alteration or operation thereof, or any part thereof, whether now or hereafter enacted and in force, and all permits, licenses and authorizations and regulations relating thereto, and all covenants, agreements, restrictions and encumbrances contained in any instruments, either of record or known to Borrower, at any time in force affecting such Individual Property or any part thereof, including, without limitation, any which may (a) require repairs, modifications or alterations in or to such Individual Property or any part thereof, or (b) in any way limit the use and enjoyment thereof.

"Lender" shall have the meaning set forth in the introductory paragraph hereto, together with its successors and assigns.

"Letter of Credit" shall mean an irrevocable, unconditional, transferable, clean sight draft letter of credit, as the same may be replaced, split, substituted, modified, amended, supplemented, assigned or otherwise restated from time to time (either an evergreen letter of credit or a letter of credit which does not expire until at least two (2) Business Days after the Maturity Date or such earlier date as such Letter of Credit is no longer required pursuant to the terms of this Agreement) in favor of Lender and Lender's successors and/or assigns and entitling Lender to draw thereon based solely on a "sight draft" or other statement purportedly executed by an officer of Lender stating that it has the right to draw thereon, and issued by a domestic Approved Bank or the U.S. agency or branch of a foreign Approved Bank, or if there are no domestic Approved Banks or U.S. agencies or branches of a foreign Approved Bank then issuing letters of credit, then such letter of credit may be issued by a domestic bank, the long term unsecured debt rating of which is the highest such rating then given by the Rating Agency or Rating Agencies, as applicable, to a domestic commercial bank. The Letter of Credit shall provide that it is freely transferable by Lender to any purchaser of the Loan. Lender hereby approves First Regional Bank as an acceptable Approved Bank provided it has at the time of the issuance and during the pendency of the Letter of Credit, a minimum long term unsecured debt rating of at least "A" by S&P and Fitch and "A2" by Moody's.

"Liabilities" shall have the meaning set forth in Section 9.2(b) hereof.

"Licenses" shall have the meaning set forth in Section 4.1.22 hereof.

"Lien" shall mean, with respect to each Individual Property, any mortgage, deed of trust, lien, pledge, hypothecation, assignment, security interest, or any other encumbrance, charge or transfer of, on or affecting Borrower, the related Individual Property, any portion thereof or any interest therein, including, without limitation, any conditional sale or other title retention agreement, any financing lease having substantially the same economic effect as any of the foregoing, the filing of any financing statement, and mechanic's, materialmen's and other similar liens and encumbrances.

"Loan" shall mean the loan in the original principal amount of One Hundred Seventy Nine Million Seven Hundred Eight-Four Thousand Eight Hundred and No/100 Dollars (\$179,784,800.00) made by Lender to Borrower pursuant to this Agreement.

"Loan Documents" shall mean, collectively, this Agreement, the Note, the Mortgages, the Assignments of Leases, the Environmental Indemnity, the O&M Agreement, the Assignment of Management Agreement, the Guaranty, the Payment Guaranty, the Cash Management Agreement and all other documents executed and/or delivered in connection with the Loan.

"Loan-to-Value Ratio" shall mean the ratio, as of a particular date, in which the numerator is equal to the outstanding principal balance of the Loan and the Mezzanine Loans and the denominator is equal to the appraised value of the Properties as determined by Lender in its sole, but good faith, discretion.

"Lockbox Account" shall have the meaning set forth in Section 2.6.1(a) hereof.

"Lockbox Bank" shall mean Regions Bank or any successor or permitted assigns thereof.

"Management Agreement" shall mean those management agreements entered into by and between Borrower and the applicable Manager, pursuant to which such Manager is to provide management and other services with respect to the Property, or, if the context requires, the Replacement Management Agreement.

"Manager" shall mean individually and collectively RAM Partners, LLC, GREP Southwest, LLC, Brookside Properties, Inc., The Lynd Company, Apartment Management Consultants, LLC and Griffis/Blessing, Inc., or, if the context requires, a Qualified Manager who is managing the Property in accordance with the terms and provisions of this Agreement.

"Maturity Date" shall mean November 11, 2011, or such other date on which the final payment of principal of the Note becomes due and payable as therein or herein provided, whether at such stated maturity date, by declaration of acceleration, or otherwise.

"Maximum Legal Rate" shall mean the maximum nonusurious interest rate, if any, that at any time or from time to time may be contracted for, taken, reserved, charged or received on the indebtedness evidenced by the Note and as provided for herein or the other Loan Documents, under the laws of such state or states whose laws are held by any court of competent jurisdiction to govern the interest rate provisions of the Loan.

"Mezzanine A Borrower" shall mean NCV Portfolio Member I, LLC and NCV Portfolio Member II, LLC (jointly and severally), each a Delaware limited liability company, together with their successors and permitted assigns.

"Mezzanine A Cash Management Account" shall mean the "Cash Management Account" as defined in the Mezzanine A Loan Agreement.

"Mezzanine Adjusted Release Amount" shall mean the lesser of (i) the outstanding principal balance of the applicable Mezzanine Loan and (ii) (X) for the Pharah Property, the Beach Maple Terrace Property and the Baltic Property, one hundred percent (100%) of the applicable Mezzanine Release Amount for each such Individual Property, and (Y) for all other Individual Properties, one hundred twenty percent (120%) of the Mezzanine Release Amount for each such Individual Property.

"Mezzanine A Lender" shall mean Column Financial, Inc., a Delaware corporation, together with its successors and assigns.

"Mezzanine A Loan" shall mean that certain loan in the original principal amount of Twenty-Nine Million Thirty-Eight Thousand and No/100 Dollars (\$29,038,000.00) made of even date herewith by Mezzanine A Lender to Mezzanine A Borrower as of the date hereof.

"Mezzanine A Loan Agreement" shall mean that certain Mezzanine Loan Agreement, dated as of the date hereof, between Mezzanine A Borrower and Mezzanine A Lender, as the same may be amended, restated, replaced, supplemented or otherwise modified, from time to time.

"Mezzanine A Loan Documents" shall mean, collectively, the Mezzanine A Loan Agreement, a promissory note evidencing the Mezzanine A Loan, a pledge and security agreement securing repayment of the Mezzanine A Loan, and all other documents evidencing or securing the Mezzanine A Loan, as the same may be amended, restated, replaced, supplemented or otherwise modified, from time to time.

"Mezzanine A Loan Event of Default" shall mean an "Event of Default" shall mean an "Event of Default" under the Mezzanine A Loan Agreement.

"Mezzanine Borrower" shall mean, individually, each of Mezzanine A Borrower, Mezzanine B Borrower, Mezzanine C Borrower and any New Mezzanine Borrower.

"Mezzanine B Borrower" shall mean NCV Portfolio Member III, LLC, a Delaware limited liability company, together with its successors and permitted assigns.

"Mezzanine B Cash Management Account" shall mean the "Cash Management Account" as defined in the Mezzanine B Loan Agreement.

"Mezzanine B Lender" shall mean Column Financial, Inc, a Delaware corporation, together with its successors and assigns.

"Mezzanine B Loan" shall mean that certain loan in the original principal amount of Twenty-Six Million One Hundred Three Thousand and No/100 Dollars (\$26,103,000.00) made by Mezzanine B Lender to Mezzanine B Borrower, as of the date hereof.

"Mezzanine B Loan Agreement" shall mean that certain Mezzanine B Loan Agreement, dated as of the date hereof, between Mezzanine B Borrower and Mezzanine B Lender, as the same may be amended, restated, replaced, supplemented or otherwise modified, from time to time.

"Mezzanine B Loan Documents" shall mean, collectively, the Mezzanine B Loan Agreement, a promissory note evidencing the Mezzanine B Loan, a pledge and security agreement securing repayment of the Mezzanine B Loan, and all other documents evidencing or securing the Mezzanine B Loan, as same may be amended, restated, replaced, supplemented or otherwise modified, from time to time.

"Mezzanine B Loan Event of Default" shall mean an "Event of Default" under the Mezzanine B Loan Agreement.

"Mezzanine C Borrower" shall mean NCV Portfolio Member IV, LLC, a Delaware limited liability company, together with its successors and permitted assigns.

"Mezzanine C Cash Management Account" shall mean the "Cash Management Account" as defined in the Mezzanine C Loan Agreement.

"Mezzanine C Loan" shall mean that certain loan in the original principal amount of Thirteen Million Fifty-One Thousand Two Hundred Seventy-Five and No/100 Dollars (\$13,051,275.00) made by Mezzanine C Lender to Mezzanine C Borrower, as of the date hereof.

"Mezzanine C Loan Agreement" shall mean that certain Mezzanine C Loan Agreement, dated as of the date hereof, between Mezzanine C Borrower and Mezzanine C Lender, as the same may be amended, restated, replaced, supplemented or otherwise modified, from time to time.

"Mezzanine C Loan Documents" shall mean, collectively, the Mezzanine C Loan Agreement, a promissory note evidencing the Mezzanine C Loan, a pledge and security agreement securing repayment of the Mezzanine C Loan, and all other documents evidencing or securing the Mezzanine C Loan, as same may be amended, restated, replaced, supplemented or otherwise modified, from time to time.

"Mezzanine C Loan Event of Default" shall mean an "Event of Default" under the Mezzanine C Loan Agreement.

"Mezzanine Loan Default" shall mean an "Event of Default" under any of the Mezzanine Loans.

"Mezzanine Loan Documents" shall mean all documents evidencing the Mezzanine Loans and all documents executed and/or delivered in connection therewith.

"Mezzanine Loans" shall mean, collectively, the Mezzanine A Loan, the Mezzanine B Loan, the Mezzanine C Loan and any New Mezzanine Loan.

"Mezzanine Monthly Debt Service Payment Amount" shall mean the "Monthly Debt Service Payment Amount" as defined in each of the First Mezzanine Loan Agreement, the Second Mezzanine Loan Agreement and/or the Third Mezzanine Loan Agreement, as the context may require.

"Mezzanine Principal" shall mean Mezzanine A Borrower, Mezzanine B Borrower and Mezzanine C Borrower, collectively, together with their respective successors and permitted assigns.

"Mezzanine Release Amount" shall mean for an Individual Property the amount set forth on Schedule V hereto.

"Monthly Interest Payment" shall have the meaning set forth in Section 2.3.1 hereof.

"Moody's" shall mean Moody's Investors Service, Inc.

"Mortgage" shall mean, with respect to each Individual Property, that certain first priority Mortgage (or Deed of Trust or Deed to Secure Debt) and Security Agreement, dated the date hereof, executed and delivered by the applicable Individual Borrower as security for the Loan and encumbering such Individual Property, as the same may be amended, restated, replaced, supplemented or otherwise modified from time to time.

"Net Cash Flow" shall mean, for any period, the amount obtained by subtracting Operating Expenses and Capital Expenditures for such period from Gross Income from Operations for such period.

"Net Cash Flow Schedule" shall have the meaning set forth in Section 5.1.11(b) hereof.

"Net Operating Income" shall mean, for any period, the amount obtained by subtracting Operating Expenses for such period from Gross Income from Operations for such period.

"Net Proceeds" shall have the meaning set forth in Section 6.4(b) hereof.

"Net Proceeds Deficiency" shall have the meaning set forth in Section 6.4(b)(vi) hereof.

"New Mezzanine Borrower" shall have the meaning set forth in Section 9.1.2(b) hereof.

"New Mezzanine Loan" shall have the meaning set forth in Section 9.1.2(b) hereof.

"Note" shall mean that certain Promissory Note, dated of even date herewith in the principal amount of One Hundred Seventy Nine Million Seven Hundred Eighty-Four Thousand Eight Hundred and No/100 Dollars (\$179,784,800.00), made by Borrower in favor of Lender, as the same may be amended, restated, replaced, supplemented, severed, substituted or otherwise modified from time to time.

"O&M. Agreement" shall mean that certain Operations and Maintenance Agreement, dated as of the date hereof, between Borrower and Lender given in connection with the Loan, as the same may be amended, restated, replaced, supplemented or otherwise modified from time to time.

"Officer's Certificate" shall mean a certificate delivered to Lender by any Individual Borrower or Borrower, as the case may be, which is signed by an authorized officer of such Individual Borrower (if the Officer's Certificate is being delivered by such Individual Borrower) or of any Individual Borrower (if the Owner's Certificate is being delivered by Borrower).

"Operating Expenses" shall mean, for any period, the total of all expenditures, computed in accordance with GAAP or a cash basis of accounting consistently applied, of whatever kind during such period relating to the operation, maintenance and management of the

Properties that are incurred on a regular monthly or other periodic basis, including without limitation, utilities, ordinary repairs and maintenance (which ordinary repairs and maintenance for the purposes of this definition shall be no less than an assumed expense of \$654,166.67 per month), insurance, license fees, property taxes and assessments, advertising expenses, management fees, payroll and related taxes, computer processing charges, tenant improvements and leasing commissions, operational equipment or other lease payments as approved by Lender, and other similar costs, but excluding depreciation, Debt Service, Capital Expenditures, and contributions to the Replacement Reserve Fund, the Tax and Insurance Escrow Fund, and any other reserves required under the Loan Documents.

"**Other Charges**" shall mean all ground rents, maintenance charges, impositions other than Taxes, and any other charges, including, without limitation, vault charges and license fees for the use of vaults, chutes and similar areas adjoining any Individual Property, now or hereafter levied or assessed or imposed against such Individual Property or any part thereof.

"**Payment Date**" shall mean the eleventh (11th) day of each calendar month during the term of the Loan or, if such day is not a Business Day, the immediately preceding Business Day.

"**Payment Guaranty**" shall mean that certain Guaranty of Payment dated as of the date hereof, given jointly and severally by Commercial Ventures, Inc., a Delaware corporation and Richard J. Nathan, an individual, for the benefit of Lender, as the same may be amended, restated, replaced, supplemented or otherwise modified from time to time.

"**Permitted Encumbrances**" shall mean with respect to an Individual Property, collectively (a) the Liens and security interests created by the Loan Documents, (b) all Liens, encumbrances and other matters disclosed in the Title Insurance Policies or the Survey relating to such Individual Property or any part thereof, (c) Liens, if any, for Taxes imposed by any Governmental Authority not yet due or delinquent, and (d) such other Title and survey exceptions as Lender has approved or may approve in writing in Lender's sole discretion.

"**Permitted Investments**" shall have the meaning set forth in the Cash Management Agreement.

"**Permitted Release Date**" shall mean the fourth (4th) anniversary of the first Payment Date.

"**Person**" shall mean any individual, corporation, partnership, joint venture, limited liability company, estate, trust, unincorporated association, any federal, state, county or municipal government or any bureau, department or agency thereof and any fiduciary acting in such capacity on behalf of any of the foregoing.

"**Personal Property**" shall have the meaning set forth in the granting clauses of the Mortgage with respect to each Individual Property.

"**Pharah Property**" shall mean the Pharah Land, as more particularly described in the Individual Mortgage with respect thereto, the Improvements thereon and all personal property owned by Dove Landing VA Portfolio IX, LLC and encumbered by such Individual

Mortgage, together with all rights pertaining to such Land and Improvements, all as more particularly described in the Granting Clauses of such Individual Mortgage.

"Physical Conditions Report" shall mean, with respect to each Individual Property, a report prepared by a company satisfactory to Lender regarding the physical condition of such Individual Property, satisfactory in form and substance to Lender in its sole discretion.

"Policies" shall have the meaning specified in Section 6.1(b) hereof.

"Prepayment Date" shall have the meaning set forth in Section 2.4.4 hereof.

"Prepayment Treasury Rate" shall mean the Treasury Rate for the week ending prior to the Prepayment Date for U.S. Treasury constant maturities with maturity dates (one longer and one shorter) most nearly approximating the Maturity Date.

"Prescribed Laws" shall mean, collectively, (a) the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (Public Law 107-56) (The USA PATRIOT Act), (b) Executive Order No. 13224 on Terrorist Financing, effective September 24, 2001, and relating to Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten to Commit, or Support Terrorism, (c) the International Emergency Economic Power Act, 50 U.S.C. §1701 et. seq. and (d) all other Legal Requirements relating to money laundering or terrorism.

"Principal" shall mean the Special Purpose Entity that is the general partner of an Individual Borrower (or Assignee), if such Individual Borrower (or Assignee) is a limited partnership, or the sole member of an Individual Borrower (or Assignee), if such Individual Borrower (or Assignee) is a limited liability company.

"Property or Properties" shall mean, collectively, each and every Individual Property which is subject to the terms of this Agreement.

"Provided Information" shall mean any and all financial and other information provided at any time by, or on behalf of, any Indemnifying Person with respect to the Properties, Borrower, Mezzanine Borrowers, Guarantor and/or Manager.

"Qualified Manager" shall mean either (a) Manager or (b) in the reasonable judgment of Lender, a reputable and experienced management organization (which may be an Affiliate of Borrower) possessing experience in managing properties similar in size, scope, use and value as the Properties, provided, that Borrower shall have obtained (i) prior written confirmation from the applicable Rating Agencies that management of the Properties by such Person will not cause a downgrade, withdrawal or qualification of the then current ratings of the Securities or any class thereof, and (ii) if such Person is an Affiliate of Borrower, an Additional Insolvency Opinion.

"Rating Agencies" shall mean each of S&P, Moody's and Fitch, or any other nationally recognized statistical rating agency which has been approved by Lender.

"Re-Dating" shall have the meaning set forth in Section 9.1.3 hereof.

"Regulation AB" shall mean Regulation AB under the Securities Act and the Exchange Act, as such Regulation may be amended from time to time.

"Release Amount" shall mean for an Individual Property the amount set forth on Schedule V hereto.

"Related Loan" shall mean a loan to an Affiliate of Borrower or secured by a Related Property, that is included in a Securitization with the Loan.

"Related Property" shall mean a parcel of real property, together with improvements thereon and personal property related thereto, that is "related" within the meaning of the definition of Significant Obligor, to the Property.

"REMIC Trust" shall mean a "real estate mortgage investment conduit" within the meaning of Section 860D of the Code that holds the Note.

"Rents" shall mean, with respect to each Individual Property, all rents (including, without limitation, percentage rents), rent equivalents, moneys payable as damages or in lieu of rent or rent equivalents, royalties (including, without limitation, all oil and gas or other mineral royalties and bonuses), income, receivables, receipts, revenues, deposits (including, without limitation, forfeited tenant security deposits which may be retained by Borrower pursuant to (i) the applicable Lease or (ii) applicable Legal Requirements, utility and other deposits), accounts, cash, issues, profits, charges for services rendered, all other amounts payable as rent under any Lease or other agreement relating to the Property, and other consideration of whatever form or nature received by or paid to or for the account of or benefit of Borrower or its agents or employees from any and all sources arising from or attributable to the Individual Property, and proceeds, if any, from business interruption or other loss of income insurance.

REPLACEMENT
MANAGEMENT
AGREEMENT
"Replacement Management Agreement" shall mean, collectively, (a) either (i) a management agreement with a Qualified Manager substantially in the same form and substance as the Management Agreement, or (ii) a management agreement with a Qualified Manager, which management agreement shall be reasonably acceptable to Lender in form and substance, provided, with respect to this subclause (ii), Lender, at its option, may require that Borrower obtain confirmation from the applicable Rating Agencies that such management agreement will not cause a downgrade, withdrawal or qualification of the then current rating of the Securities or any class thereof; and (b) an assignment of management agreement and subordination of management fees substantially in the form then used by Lender (or in such other form and substance reasonably acceptable to Lender), executed and delivered to Lender by Borrower and such Qualified Manager at Borrower's expense.

"Replacement Reserve Account" shall have the meaning set forth in Section 7.3.1 hereof.

"Replacement Reserve Fund" shall have the meaning set forth in Section 7.3.1 hereof.

"Replacement Reserve Monthly Deposit" shall have the meaning set forth in Section 7.3.1 hereof.

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"Replacements" shall have the meaning set forth in Section 7.3.1 hereof.

"Required Repair Account" shall have the meaning set forth in Section 7.1.1 hereof.

"Required Repair Fund" shall have the meaning set forth in Section 7.1.1 hereof.

"Required Repairs" shall have the meaning set forth in Section 7.1.1 hereof.

"Reserve Funds" shall mean, collectively, the Tax and Insurance Escrow Fund, the Replacement Reserve Fund, the Required Repair Fund, the Interest Reserve Fund and any other escrow fund established pursuant to the Loan Documents.

"Restoration" shall mean the repair and restoration of an Individual Property after a Casualty or Condemnation as nearly as possible to the condition the Individual Property was in immediately prior to such Casualty or Condemnation, with such other alterations in connection with such repair or restoration as may be reasonably approved by Lender.

"Restricted Party" shall mean, collectively (a) Borrower, Principal, Mezzanine Borrowers, Mezzanine Principals, Guarantor and any Affiliated Manager and (b) any shareholder, partner, member, non-member manager, direct or indirect legal or beneficial owner of, Borrower, Principal, Mezzanine Borrowers, Mezzanine Principals, Guarantor, any Affiliated Manager or any non-member manager.

"S&P" shall mean Standard & Poor's Ratings Group, a division of The McGraw-Hill Companies, Inc.

"Sale or Pledge" shall mean a voluntary or involuntary sale, conveyance, assignment, transfer, encumbrance, pledge, grant of option or other disposal of a legal or beneficial interest, whether direct or indirect.

"Scheduled Defeasance Payments" shall have the meaning set forth in Section 2.5.1(b) hereof.

"Securities" shall have the meaning set forth in Section 9.1 hereof.

"Securities Act" shall have the meaning set forth in Section 9.2(a) hereof.

"Securitization" shall have the meaning set forth in Section 9.1 hereof.

"Security Agreement" shall have the meaning set forth in Section 2.5.1(a)(v) hereof.

"Servicer" shall have the meaning set forth in Section 9.6 hereof.

"Servicing Agreement" shall have the meaning set forth in Section 9.6 hereof.

"Severed Loan Documents" shall have the meaning set forth in Section 8.2(c) hereof.

"Significant Obligor" shall have the meaning set forth in Item 1101(k) of Regulation AB under the Securities Act.

"Special Purpose Entity" shall mean a corporation, limited partnership or limited liability company that since the date of its formation and at all times on and after the date thereof, has complied with and shall at all times comply with the following requirements hereof:

(a) is organized solely for the purpose of (i) acquiring, developing, owning, holding, selling, leasing, transferring, exchanging, managing, operating and pledging the Properties or its Individual Property, entering into this Agreement with the Lender, refinancing the Properties or its Individual Property in connection with a permitted repayment of the Loan or portion thereof, and transacting lawful business that is incident, necessary and appropriate to accomplish the foregoing; or (ii) acting as a general partner or limited partner of a limited partnership that owns the Properties or an Individual Property or the sole member of a limited liability company that owns the Properties or an Individual Property;

(b) is not engaged and will not engage in any business unrelated to (i) the acquisition, development, ownership, management or operation of the Properties or its Individual Property, (ii) acting as general partner or limited partner of a limited partnership that owns the Properties or an Individual Property or (iii) acting as the sole member of a limited liability company that owns the Properties or an Individual Property, as applicable;

(c) does not have and will not have any assets other than the Properties or its Individual Property and personal property necessary or incidental to its ownership and operation of the Properties or its Individual Property, or its partnership interest in a limited partnership, or the member interest in a limited liability company that owns the Properties or an Individual Property, or acts as the general partner or managing member thereof, as applicable;

(d) has not engaged, sought or consented to and will not engage in, seek or consent to any dissolution, winding up, liquidation, consolidation, merger, sale of all or substantially all of its assets, transfer of its partnership or membership interests (if such entity is a general partner in a limited partnership or a member in a limited liability company) or amendment of its limited partnership agreement, articles of incorporation, articles of organization, certificate of formation or operating agreement (as applicable) with respect to the matters set forth in this definition;

(e) if such entity is a limited partnership, has, as its only general partners, Special Purpose Entities that are corporations, limited partnerships or limited liability companies;

(f) if such entity is a corporation, has at least two (2) Independent Directors, and has not caused or allowed and will not cause or allow the board of directors of such

entity to take any action requiring the unanimous affirmative vote of one hundred percent (100%) of the members of its board of directors unless two (2) Independent Directors shall have participated in such vote;

(g) if such entity is a limited liability company with more than one member, has at least one member that is a Special Purpose Entity that is a corporation that has at least two (2) Independent Directors and that owns at least one-half of one percent (0.5%) of the equity of the limited liability company;

(h) if such entity is a limited liability company with only one (1) member, is a limited liability company organized in the State of Delaware that has (i) as its only member a non-managing member, (ii) at least two (2) Independent Directors and has not caused or allowed and will not cause or allow the board of directors or the board of managers of such entity to take any action requiring the unanimous affirmative vote of one hundred percent (100%) of the managers unless two (2) Independent Directors shall have participated in such vote and (iii) at least two (2) special members that will become the non-managing members of such entity upon the dissolution of the existing non-managing member;

(i) if such entity is (i) a limited liability company, has articles of organization, a certificate of formation and/or an operating agreement, as applicable, (ii) a limited partnership, has a limited partnership agreement, or (iii) a corporation, has a certificate of incorporation or articles that, in each case, provide that such entity will not: (A) dissolve, merge, liquidate or consolidate; (B) sell all or substantially all of its assets or the assets of Borrower or an Individual Borrower (as applicable); (C) engage in any other business activity, or amend its organizational documents with respect to the matters set forth in this definition without the consent of the Lender; or (D) without the unanimous written consent of the Principal of Borrower and without the affirmative vote of the board of directors of Borrower (including, but not limited to, the affirmative vote of two (2) Independent Directors), file a bankruptcy or insolvency petition or otherwise institute insolvency proceedings with respect to itself or to any other entity in which it has a direct or indirect legal or beneficial ownership interest;

(j) is and will endeavor to remain solvent and pay its debts and liabilities (including, as applicable, shared personnel and overhead expenses) from its assets as the same shall become due, and is maintaining and will endeavor to maintain adequate capital for the normal obligations reasonably foreseeable in a business of its size and character and in light of its contemplated business operations;

(k) has not failed and will not fail to correct any known misunderstanding regarding the separate identity of such entity;

(l) has maintained and will maintain its accounts, books and records separate from any other Person and will file its own tax returns, except to the extent that it is required to file consolidated tax returns by applicable law;

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(m) has maintained and will maintain its own records, books, resolutions and agreements;

(n) other than as provided in the Cash Management Agreement, (i) has not commingled and will not commingle its funds or assets with those of any other Person and (ii) has not participated and will not participate in any cash management system with any other Person;

(o) has held and will hold its assets in its own name;

(p) has conducted and will conduct its business in its name or in a name franchised or licensed to it by an entity other than an Affiliate of Borrower or an Individual Borrower, except for services rendered under a business management services agreement with an Affiliate that complies with the terms contained in Subsection (dd) below, so long as the manager, or equivalent thereof, under such business management services agreement holds itself out as an agent of the Borrower or the applicable Individual Borrower;

(q) has maintained and will maintain its financial statements, accounting records and other entity documents separate from any other Person and has not permitted and will not permit its assets to be listed as assets on the financial statement of any other entity except as required by GAAP or other method of financial accounting reasonably acceptable to Lender consistently applied; provided, however, that any such consolidated financial statement shall contain a note indicating that its separate assets and liabilities are neither available to pay the debts of the consolidated entity nor constitute obligations of the consolidated entity;

(r) has paid and will pay its own liabilities and expenses, including the salaries of its own employees, out of its own funds and assets, and has maintained and will maintain a sufficient number of employees in light of its contemplated business operations;

(s) has observed and will observe all partnership, corporate or limited liability company formalities, as applicable;

(t) has and will have no Indebtedness other than (i) the Loan, (ii) liabilities incurred in the ordinary course of business relating to the ownership and operation of the Properties or its Individual Property and the routine administration of Borrower or an Individual Borrower, in amounts not to exceed three percent (3%) of the original principal balance of the Loan (or, in case of an Individual Borrower, three percent (3%) of the Release Amount applicable to its Individual Property) which liabilities are not more than sixty (60) days past the date incurred, are not evidenced by a note and are paid when due, and which amounts are normal and reasonable under the circumstances, and (iii) such other liabilities that are permitted pursuant to this Agreement;

(u) has not and will not assume or guarantee or become obligated for the debts of any other Person or hold out its credit as being available to satisfy the obligations of any other Person except as permitted pursuant to this Agreement;

(v) has not and will not acquire obligations or securities of its partners, members or shareholders or any other Affiliate;

(w) has allocated and will allocate fairly and reasonably any overhead expenses that are shared with any Affiliate, including, but not limited to, paying for shared office space and services performed by any employee of an Affiliate;

(x) maintains and uses and will maintain and use separate stationery, invoices and checks bearing its name. The stationery, invoices, and checks utilized by the Special Purpose Entity or utilized to collect its funds or pay its expenses shall bear its own name and shall not bear the name of any other entity unless such entity is clearly designated as being the Special Purpose Entity's agent;

(y) except for any pledges to Lender pursuant to the Loan Documents, has not pledged and will not pledge its assets for the benefit of any other Person;

(z) has held itself out and identified itself and will hold itself out and identify itself as a separate and distinct entity under its own name or in a name franchised or licensed to it by an entity other than an Affiliate of Borrower or an Individual Borrower and not as a division or part of any other Person, except for services rendered under a business management services agreement with an Affiliate that complies with the terms contained in Subsection (dd) below, so long as the manager, or equivalent thereof, under such business management services agreement holds itself out as an agent of the Borrower or the applicable Borrower;

(aa) has maintained and will maintain its assets in such a manner that it will not be costly or difficult to segregate, ascertain or identify its individual assets from those of any other Person;

(bb) has not made and will not make loans to any Person or hold evidence of indebtedness issued by any other Person or entity (other than cash and investment-grade securities issued by an entity that is not an Affiliate of or subject to common ownership with such entity);

(cc) has not identified and will not identify its partners, members or shareholders, or any Affiliate of any of them, as a division or part of it, and has not identified itself and shall not identify itself as a division of any other Person;

(dd) has not entered into or been a party to, and will not enter into or be a party to, any transaction with its partners, members, shareholders or Affiliates except (A) in the ordinary course of its business and on terms which are intrinsically fair, commercially reasonable and are no less favorable to it than would be obtained in a comparable arm's-length transaction with an unrelated third party and (B) in connection with this Agreement;

(ee) has not and will not have any obligation to, and will not, indemnify its partners, officers, directors or members, as the case may be, unless such an obligation is fully subordinated to the Debt and will not constitute a claim against it in the event that

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cash flow in excess of the amount required to pay the Debt is insufficient to pay such obligation;

(ff) if such entity is a corporation, it shall consider the interests of its creditors in connection with all corporate actions;

(gg) except as provided under the Loan Documents, does not and will not have any of its obligations guaranteed by any Affiliate; and

(hh) has complied and will comply with all of the terms and provisions contained in its organizational documents. The statement of facts contained in its organizational documents are true and correct and will remain true and correct.

"Standard Statements" shall have the meaning set forth in Section 5.1.11(f)(i) hereof.

"State" shall mean the State or Commonwealth in which the Properties or any part thereof is located.

"Successor Borrower" shall have the meaning set forth in Section 2.5.3 hereof.

"Survey" shall mean a survey of the applicable Individual Property prepared pursuant to the requirements contained in Section 4.1.27 hereof.

"Tax and Insurance Escrow Fund" shall have the meaning set forth in Section 7.2 hereof.

"Taxes" shall mean all real estate and personal property taxes, assessments, water rates or sewer rents, now or hereafter levied or assessed or imposed against any Individual Property or part thereof.

"Threshold Amount" shall have the meaning set forth in Section 5.1.21 hereof.

"Title Insurance Policies" shall mean, with respect to each Individual Property, an ALTA mortgagee title insurance policy in a form (acceptable to Lender) (or, if the Individual Property is in a State which does not permit the issuance of such ALTA policy, such form as shall be permitted in such State and acceptable to Lender) issued with respect to such Individual Property and insuring the lien of the Mortgage encumbering such Individual Property.

"Traded Entity" shall have the meaning set forth in Section 5.2.10(d) hereof.

"Transfer" shall have the meaning set forth in Section 5.2.10(b) hereof.

"Treasury Rate" shall mean, as of the Maturity Date, the yield, calculated by linear interpolation (rounded to the nearest one-thousandth of one percent (*i.e.*, 0.001%), of the yields of noncallable United State Treasury obligations with terms (one longer and one shorter) most nearly approximately the period from such date of determination to the Maturity Date, as determined by Lender on the basis of Federal Reserve Statistical Release H.15-Selected Interest

Rates under the heading U.S. Governmental Security/Treasury Constant Maturities, or other recognized source of financial market information selected by Lender.

"UCC" or "Uniform Commercial Code" shall mean the Uniform Commercial Code as in effect from time to time in the State of New York and, to the extent applicable, in the State of Delaware or in the State or Commonwealth in which an Individual Property is located.

"U.S. Obligations" shall mean non-redeemable securities evidencing an obligation to timely pay principal and/or interest in a full and timely manner that are (a) direct obligations of the United States of America for the payment of which its full faith and credit is pledged, or (b) to the extent acceptable to the Rating Agencies, other "government securities" within the meaning of Section 2(a)(16) of the Investment Company Act of 1940, as amended.

"Yield Maintenance Premium" shall mean the amount (if any) which, when added to the remaining principal amount of the Note, will be sufficient to purchase U.S. Obligations providing the required Scheduled Defeasance Payments.

"Yield Maintenance Treasury Rate" shall mean the yield calculated by Lender by the linear interpolation of the yields, as reported in the Federal Reserve Statistical Release H.15-Selected Interest Rates under the heading U.S. Government Securities/Treasury Constant Maturities for the week ending prior to the Prepayment Date, of U.S. Treasury Constant Maturities with maturity dates (one longer and one shorter) most nearly approximating the Maturity Date. In the event Release H.15 is no longer published, Lender shall select a comparable publication to determine the Yield Maintenance Treasury Rate.

Section 1.2. Principles of Construction. All references to sections and schedules are to sections and schedules in or to this Agreement unless otherwise specified. All uses of the word "including" shall mean "including, without limitation" unless the context shall indicate otherwise. Unless otherwise specified, the words "hereof," "herein" and "hereunder" and words of similar import when used in this Agreement shall refer to this Agreement as a whole and not to any particular provision of this Agreement. Unless otherwise specified, all meanings attributed to defined terms herein shall be equally applicable to both the singular and plural forms of the terms so defined. Wherever a representation, warranty or certificate is based upon the knowledge of any Individual Borrower or Borrower, the knowledge of each Individual Borrower shall be imputed to each other Individual Borrower and Borrower.

II. GENERAL TERMS

Section 2.1. Loan Commitment; Disbursement to Borrower.

2.1.1 Agreement to Lend and Borrow. Subject to and upon the terms and conditions set forth herein, Lender hereby agrees to make and Borrower hereby agrees to accept the Loan on the Closing Date.

2.1.2 Single Disbursement to Borrower. Borrower may request and receive only one borrowing hereunder in respect of the Loan and any amount borrowed and repaid hereunder in respect of the Loan may not be reborrowed.

2.1.3 The Note, Mortgage and Loan Documents. The Loan shall be evidenced by the Note and secured by the Mortgages, the Assignments of Leases and the other Loan Documents.

2.1.4 Use of Proceeds. Borrower shall use the proceeds of the Loan to (a) acquire the Properties and/or repay and discharge any existing loans relating to the Properties, (b) pay all past-due Basic Carrying Costs, if any, with respect to the Properties, (c) make initial deposits into the Reserve Funds on the Closing Date in the amounts provided herein, (d) pay costs and expenses incurred in connection with the closing of the Loan, as approved by Lender, (e) fund any working capital requirements of the Properties and (f) distribute the balance, if any, to Borrower.

Section 2.2. Interest Rate.

2.2.1 Interest Rate. Interest on the outstanding principal balance of the Loan shall accrue from the Closing Date to but excluding the Maturity Date at the Interest Rate, and thereafter, if not paid in full, at the Default Rate.

2.2.2 Interest Calculation. Interest on the outstanding principal balance of the Loan shall be calculated by multiplying (a) the actual number of days elapsed in the period for which the calculation is being made by (b) a daily rate based on a three hundred sixty (360) day year by (c) the outstanding principal balance.

2.2.3 Default Rate. In the event that, and for so long as, any Event of Default shall have occurred and be continuing, the outstanding principal balance of the Loan and, to the extent permitted by law, all accrued and unpaid interest in respect of the Loan and any other amounts due pursuant to the Loan Documents, shall accrue interest at the Default Rate, calculated from the date such payment was due without regard to any grace or cure periods contained herein.

2.2.4 Usury Savings. This Agreement, the Note and the other Loan Documents are subject to the express condition that at no time shall Borrower be obligated or required to pay interest on the principal balance of the Loan at a rate which could subject Lender to either civil or criminal liability as a result of being in excess of the Maximum Legal Rate. If, by the terms of this Agreement or the other Loan Documents, Borrower is at any time required or obligated to pay interest on the principal balance due hereunder at a rate in excess of the Maximum Legal Rate, the Applicable Interest Rate or the Default Rate, as the case may be, shall be deemed to be immediately reduced to the Maximum Legal Rate and all previous payments in excess of the Maximum Legal Rate shall be deemed to have been payments in reduction of principal and not on account of the interest due hereunder. All sums paid or agreed to be paid to Lender for the use, forbearance, or detention of the sums due under the Loan, shall, to the extent permitted by applicable law, be amortized, prorated, allocated, and spread throughout the full stated term of the Loan until payment in full so that the rate or amount of interest on account of the Loan does not exceed the Maximum Legal Rate of interest from time to time in effect and applicable to the Loan for so long as the Loan is outstanding.

Section 2.3. Loan Payment.

2.3.1 Interest Payments. Borrower shall pay to Lender (a) on the Closing Date, an amount equal to interest only on the outstanding principal balance of the Loan from the Closing Date up to but not including the first Payment Date (unless such Closing Date is the eleventh (11th) day of the month, in which case no such interest only payment shall be due), and (b) on each Payment Date thereafter up to and including the Maturity Date, an amount equal to interest only accrued at the Interest Rate on the outstanding principal balance of the Loan for the applicable Interest Accrual Period (the "Monthly Interest Payment").

2.3.2 Payments Generally. The first interest accrual period hereunder shall commence on and include the Closing Date and end on November 10, 2006. Each interest accrual period thereafter shall commence on the eleventh (11th) day of each calendar month during the term of the Loan and shall end on and include the tenth (10th) day of the next occurring calendar month. For purposes of making payments hereunder, but not for purposes of calculating interest accrual periods, if the day on which such payment is due is not a Business Day, then amounts due on such date shall be due on the immediately preceding Business Day and with respect to payments of principal due on the Maturity Date, interest shall be payable at the Interest Rate or the Default Rate, as the case may be, through and including the day immediately preceding such Maturity Date. All amounts due pursuant to this Agreement and the other Loan Documents shall be payable without setoff, counterclaim, defense or any other deduction whatsoever.

2.3.3 Payment on Maturity Date. Borrower shall pay to Lender on the Maturity Date the outstanding principal balance of the Loan, all accrued and unpaid interest and all other amounts due hereunder and under the Note, the Mortgages and the other Loan Documents.

2.3.4 Late Payment Charge. If any principal, interest or any other sums due under the Loan Documents (other than the outstanding principal balance due on the Maturity date) is not paid by Borrower by the date on which it is due, Borrower shall pay to Lender upon demand an amount equal to the lesser of four percent (4%) of such unpaid sum or the maximum amount permitted by applicable law in order to defray the expense incurred by Lender in handling and processing such delinquent payment and to compensate Lender for the loss of the use of such delinquent payment. Any such amount shall be secured by the Mortgages and the other Loan Documents to the extent permitted by applicable law.

2.3.5 Method and Place of Payment. Except as otherwise specifically provided herein, all payments and prepayments under this Agreement and the Note shall be made to Lender not later than 1:00 P.M., New York City time, on the date when due and shall be made in lawful money of the United States of America in immediately available funds at Lender's office or as otherwise directed by Lender, and any funds received by Lender after such time shall, for all purposes hereof, be deemed to have been paid on the next succeeding Business Day.

Section 2.4. Prepayments.

2.4.1 Voluntary Prepayments. Except as otherwise provided herein, Borrower shall not have the right to prepay the Loan in whole or in part prior to the Maturity Date. On the Payment Date two (2) months prior to Maturity Date, or on any Payment Date thereafter, Borrower may, at its option and upon thirty (30) days prior notice to Lender, prepay the Debt in whole or in part without payment of the Yield Maintenance Premium. If for any reason Borrower prepays the Loan on a date other than a Payment Date, Borrower shall pay Lender, in addition to the Debt, all interest which would have accrued on the amount of the Loan through and including the eleventh (11th) day of the calendar month following the month in which the payment is received.

2.4.2 Mandatory Prepayments. On the next occurring Payment Date following the date on which Lender actually receives any Net Proceeds, if Lender is not obligated to make such Net Proceeds available to Borrower for Restoration, Borrower shall prepay, or authorize Lender to apply, Net Proceeds as a prepayment of, the outstanding principal balance of the Note in an amount equal to one hundred percent (100%) of such Net Proceeds. Other than during the existence of an Event of Default, no Yield Maintenance Premium shall be due in connection with any prepayment made pursuant to this Section 2.4.2. Any partial prepayment under this Section 2.4.2 shall be applied to the last payments of principal due under the Loan. Any Net Proceeds remaining after the prepayment of the Loan in full shall be (i) if any of the First Mezzanine Loan (or any portion thereof) is then outstanding, transferred by Lender to the First Mezzanine Lender for application in accordance with the terms of the First Mezzanine Loan Documents, (ii) if the First Mezzanine Loan has been repaid in full, and if any of the Second Mezzanine Loan (or any portion thereof) is then outstanding, transferred by Lender to the Second Mezzanine Lender for application in accordance with the terms of the Second Mezzanine Loan Documents or (iii) if the First Mezzanine Loan and Second Mezzanine Loan have each been repaid in full, and if any of the Third Mezzanine Loan (or any portion thereof) is then outstanding, transferred by Lender to the Third Mezzanine Lender for application in accordance with the terms of the Third Mezzanine Loan Documents or (b) if the Loan and the Mezzanine Loans have then been repaid in full, paid to Borrower.

2.4.3 Prepayments After Default. If, after the occurrence and during the continuance of an Event of Default, payment of all or any part of the Debt is tendered by Borrower or otherwise recovered by Lender (including through application of any Reserve Funds), such tender or recovery shall be (a) made on the next occurring Payment Date together with the Monthly Debt Service Payment and (b) deemed to be a voluntary prepayment by Borrower in violation of the prohibition against prepayment set forth in Section 2.4.1 and Borrower shall pay, in addition to the Debt, an amount equal to the greater of (i) five percent (5%) of the outstanding principal balance of the Loan to be prepaid or satisfied, and (ii) the Yield Maintenance Premium that would be required if a Defeasance Event had occurred in an amount equal to the outstanding principal amount of the Loan to be prepaid or satisfied.

2.4.4 Prepayment During Defeasance Lockout. If the Permitted Release Date has occurred, but the Defeasance Lockout Date has not occurred, the Debt may be prepaid in whole (but not in part) prior to the date permitted under Section 2.4.1 hereof upon not less

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than thirty (30) days prior notice to Lender specifying the Payment Date on which prepayment is to be made (a "Prepayment Date") provided no Event of Default exists and upon payment of an amount equal to the greater of (a) the present value as of the Prepayment Date of the remaining scheduled payments of principal and interest due pursuant to the Loan Documents from the Prepayment Date through the Maturity Date (including an amount equal to the outstanding principal balance of the Loan on the Maturity Date) determined by discounting such payments at the Discount Rate, less the amount of principal being prepaid, and (b) one percent (1%) of the outstanding principal balance of the Loan as of the Prepayment Date. Lender shall notify Borrower of the amount and the basis of determination of the required prepayment consideration. If any notice of prepayment is given, the Debt shall be due and payable on the Prepayment Date. Lender shall not be obligated to accept any prepayment of the Debt unless it is accompanied by the prepayment consideration due in connection therewith.

2.4.5 Prepayment of the Pharah Property, the Beach Maple Property and the Baltic Property During Defeasance Lockout. Only if the Defeasance Lockout Date has not occurred, the Pharah Property, the Beach Maple Property and the Baltic Property only may be released from the lien of the applicable Mortgage (and the other Loan Documents) only upon the satisfaction of the following covenants:

(a) Borrower delivers not less than thirty (30) days prior notice to Lender specifying a Prepayment Date;

(b) no Event of Default exists;

(c) Borrower shall pay to Lender on or before such Prepayment Date an amount equal to the greater of (a) the present value as of the Prepayment Date of the Calculated Payments from the Prepayment Date through the Maturity Date (including an amount equal to the outstanding principal balance of the Loan on the Maturity Date) determined by discounting such payments at the Discount Rate, less the amount of principal being prepaid, and (b) one percent (1%) of the outstanding principal balance of the Loan as of the Prepayment Date. Lender shall notify Borrower of the amount and the basis of determination of the required prepayment consideration. Lender shall notify Borrower of the amount and the basis of determination of the required prepayment consideration;

(d) Borrower shall pay to Lender the Adjusted Release Amount for the applicable Individual Property (i.e., the Pharah Property, the Beach Maple Terrace Property and/or the Baltic Property) to be released;

(e) At the request of Lender, Borrower shall execute an amendment to this Loan Agreement and the Mortgages and any of the other Loan Documents in order to effectuate the terms of this Section 2.4.5 and Borrower shall pay all of Lender's actual costs associated with amending such documents;

(f) After giving effect to such release, the legal and financial structure of each Individual Borrower and its managers or members, and the single purpose nature and bankruptcy remoteness of each Individual Borrower and its managers or members shall satisfy in

all respects this Agreement and Lender's then current applicable underwriting criteria and requirements, including, without limitation, the requirement, at the request of Lender or the Rating Agencies, to deliver written confirmation from the Rating Agencies that such release will not result in a qualification, downgrade or withdrawal of the applicable ratings;

(g) Borrower shall deliver to Lender an endorsement, at Borrower's sole cost and expense, to Lender's policy of title insurance (or an irrevocable commitment to issue such an endorsement), in form and substance reasonably satisfactory to Lender and insuring that the priority of Lender's lien created by the Mortgage, shall not be impaired as a result of the release of the applicable Individual Property;

(h) Borrower shall deliver to Lender such other certificates, documents or instruments as Lender may reasonably require in connection with such release, together with an Officer's Certificate certifying that such documentation (a) is in compliance with all Legal Requirements and (b) will effect such releases in accordance with the terms of this Agreement;

(i) Borrower shall or shall cause Mezzanine Borrowers to pay to Lender the applicable Mezzanine Adjusted Release Amount for the Mezzanine Loans of the Individual Property, provided that Lender shall distribute all such payments described in this clause (i) to the Mezzanine Lenders in accordance with Section 2.7.2(b); and

(j) Following a release of an Individual Property pursuant to this Section 2.4.5, Lender shall adjust (if applicable) the amounts required to be deposited by Borrower into the Tax and Insurance Escrow Fund and the Replacement Reserve Fund, as determined by Lender in its sole but good faith discretion.

Section 2.5. Defeasance.

2.5.1 Voluntary Defeasance. (a) Provided no Event of Default shall then exist and so long as the Defeasance Lockout Date has occurred, Borrower shall have the right at any time prior to the date voluntarily prepayments are permitted under Section 2.4.1 hereof to cause the release of all the Properties or an Individual Property, as the case may be, from the lien of Mortgages (or applicable Mortgage, as the case may be) and the other Loan Documents, by and upon satisfaction of the following conditions (such event being a "Defeasance Event"):

(i) Borrower shall provide not less than thirty (30) days prior written notice to Lender and, if Column Financial, Inc. is not then Lender, to Lender and, to Column Financial, Inc. at 3414 Peachtree Road, N.E., Suite 400, Atlanta, Georgia 30326-1113, Attention: Robert A. Barnes, Esq., specifying the Payment Date (the "Defeasance Date") on which the Defeasance Event shall occur;

(ii) Borrower shall pay to Lender all accrued and unpaid interest on the principal balance of the Loan to and including the Defeasance Date;

(iii) Borrower shall pay to Lender all other sums, not including scheduled interest or principal payments, then due under the Note, this Agreement, the Mortgage and the other Loan Documents;

(iv) Borrower shall pay to Lender the required Defeasance Deposit for the Defeasance Event;

(v) in the event only a portion of the Loan is the subject of a defeasance, Borrower, at Borrower's expense, shall prepare all necessary documents to modify this Agreement and the applicable Mortgage (and any other applicable Loan Documents) and to amend and restate the Note and issue two substitute notes, one note having a principal balance equal to the defeased portion of the original Note (the "Defeased Note") and other note having a principal balance equal to the undefeased portion of the Note (the "Undefeased Note"). The Defeased Note and the Undefeased Note shall have identical terms as the Note except for the principal balance. The principal balance of the Defeased Note shall equal or exceed the Adjusted Release Amount for the applicable Individual Property to be released. A Defeased Note cannot be the subject of any further defeasance;

(vi) Borrower shall execute and deliver a pledge and security agreement, in form and substance that would be reasonably satisfactory to a prudent lender creating a first priority lien on the Defeasance Deposit and the U.S. Obligations purchased with the Defeasance Deposit in accordance with the provisions of this Section 2.5 (the "Security Agreement");

(vii) Borrower shall deliver an opinion of counsel for Borrower that is standard in commercial lending transactions and subject only to customary qualifications, assumptions and exceptions opining, among other things, that (A) Borrower has legally and validly transferred and assigned the U.S. Obligations and all obligations, rights and duties under and to the Note or Defeased Note, as applicable, to the Successor Borrower, (B) Lender has a perfected first priority security interest in the Defeasance Deposit and the U.S. Obligations delivered by Borrower, and (C) any REMIC Trust formed pursuant to a Securitization will not fail to maintain its status as a "real estate mortgage investment conduit" within the meaning of Section 860D of the Code as a result of such Defeasance Event;

(viii) Borrower shall deliver confirmation in writing from the applicable Rating Agencies to the effect that the defeasance of the Loan and substitution of collateral will not result in a downgrade, withdrawal or qualification of the respective ratings in effect immediately prior to such Defeasance Event for the Securities issued in connection with the Securitization which are then outstanding. If required by the applicable Rating Agencies, Borrower shall also deliver or cause to be delivered a non-consolidation opinion with respect to the Successor Borrower in form and substance satisfactory to Lender and the applicable Rating Agencies;

(ix) Borrower shall deliver an Officer's Certificate certifying that the requirements set forth in this Section 2.5.1(a) have been satisfied;

(x) Borrower shall deliver a certificate of Borrower's independent certified public accountant certifying that the U.S. Obligation purchased with the Defeasance

Deposit generate monthly amounts equal to or greater than the Scheduled Defeasance Payments;

(xi) Borrower shall deliver such other certificates, documents or instruments as Lender may reasonably request; and

(xii) Borrower shall pay all costs and expenses of Lender incurred in connection with the Defeasance Event, including (A) any costs and expenses associated with a release of the Lien of the Mortgage as provided in Section 2.6 hereof, (B) reasonable attorneys' fees and expenses incurred in connection with the Defeasance Event, (C) the costs and expenses of the Rating Agencies, and (D) any revenue, documentary stamp or intangible taxes or any other tax or charge due in connection with the transfer of the Note, or otherwise required to accomplish the defeasance.

(b) In connection with the Defeasance Event, Borrower shall use the Defeasance Deposit to purchase U.S. Obligations which provide payments on or prior to, but as close as possible to, all successive scheduled Payment Dates after the Defeasance Date upon which interest and principal payments are required under this Agreement and the Note and in amounts equal to the scheduled payments due on such Payment Dates under this Agreement and the Note (including, without limitation, scheduled payments of principal, interest, servicing fees (if any), and any other amounts due under the Loan Documents on such dates), or in the case of a partial defeasance, the Defeased Note, as applicable, and assuming such Note is prepaid in full on the Maturity Date (the "Scheduled Defeasance Payments"). Borrower, pursuant to the Security Agreement or other appropriate document, shall authorize and direct that the payments received from the U.S. Obligations shall be made directly to Lender (unless otherwise directed by Lender) and applied to satisfy the obligations of Borrower under this Agreement and the Note. Any portion of the Defeasance Deposit in excess of the amount necessary to purchase the U.S. Obligations required by this Section 2.5 and satisfy Borrower's other obligations under this Section 2.5 and Section 2.6 shall be remitted to Borrower.

2.5.2 Collateral. Each of the U.S. Obligations that are part of the defeasance collateral shall be duly endorsed by the holder thereof as directed by Lender or accompanied by a written instrument of transfer in form and substance that would be satisfactory to a prudent lender (including, without limitation, such instruments as may be required by the depository institution holding such securities or by the issuer thereof, as the case may be, to effectuate book-entry transfers and pledges through the book-entry facilities of such institution) in order to perfect upon the delivery of the defeasance collateral a first priority security interest therein in favor of the Lender in conformity with all applicable state and federal laws governing the granting of such security interests.

2.5.3 Successor Borrower. (a) In connection with a Defeasance Event, Borrower shall establish or designate a successor entity (the "Successor Borrower") which Successor Borrower may, at the option of Column Financial, Inc., be designated by Column Financial, Inc. in its sole discretion, and which shall be a single purpose bankruptcy remote entity with two (2) Independent Directors which shall not own any other assets or have any other liabilities or operate any other property (except in connection with other defeased loans held in the same Securitization with the Loan), and Borrower shall transfer and assign all

obligations, rights and duties under and to the Note, together with the pledged U.S. Obligations to such Successor Borrower. The right of Column Financial, Inc. to designate the Successor Borrower shall, at the option of Column Financial, Inc., be retained by Column Financial, Inc. notwithstanding the sale or transfer of the Loan. Such Successor Borrower shall assume the obligations under the Note and the Security Agreement and Borrower shall be relieved of its obligations under such documents. Borrower shall pay any fees charged by such Successor Borrower as consideration for assuming the obligations under the Note and the Security Agreement, provided that such fees shall not exceed \$5,000 for any Successor Borrower designated by Column Financial, Inc. Additionally, Borrower shall pay all costs and expenses incurred by Successor Borrower, including attorneys' fees and expenses, incurred in connection therewith. Notwithstanding anything in this Agreement to the contrary, no other assumption fee shall be payable upon a transfer of the Note in accordance with this Section 2.5.3, but Borrower shall pay all costs and expenses incurred by Lender, including Lender's attorneys' fees and expenses and any fees and expenses of any Rating Agencies, incurred in connection therewith.

(b) Borrower shall transfer and assign to Successor Borrower (and Successor Borrower shall assume) all rights, duties and obligations under the Note and the Security Agreement arising from and after the Defeasance Date pursuant to an assignment and assumption agreement in form and substance satisfactory to a prudent lender. As a condition to such assignment and assumption, Successor Borrower shall deliver to Lender one or more opinions of counsel in form and substance and delivered by counsel satisfactory to a prudent lender stating among other things, (i) that such assignment and assumption agreement and related documents are enforceable against Successor Borrower in accordance with their respective terms, (ii) Successor Borrower is duly organized, validly existing and in good standing under the laws of the state of its formation, (iii) Successor Borrower has the power and authority to execute the assumption documents and perform its obligations thereunder, and (iv) if required by Lender or the Rating Agencies, a non-consolidation opinion. Borrower shall pay all costs and expenses incurred by Lender or its agents in connection with such assignment and assumption (including, without limitation, the review of the proposed transferee and the preparation of the assumption agreement and related documentation).

2.5.4 Partial Defeasance and Partial Release. Any Individual Borrower may obtain a release of their Individual Property from the lien of the applicable Mortgage (and the other Loan Documents) only upon the satisfaction of all of the conditions in Section 2.5.1 above as well as the following additional following conditions:

(a) Borrower shall deliver evidence reasonably satisfactory to Lender that the Debt Service Coverage Ratio for the Properties after giving effect to such release, as determined by Lender in its sole discretion, shall be at least equal to the greater of (x) the Debt Service Coverage Ratio for the Properties immediately preceding the release of the Individual Property and (y) the Debt Service Coverage Ratio for the Properties as of the date hereof;

(b) Borrower shall deliver evidence satisfactory to Lender that the loan-to-value ratio for the Properties after giving effect to such release (taking into account the outstanding principal amount of the Loan and the Mezzanine Loans), as determined by Lender in its sole discretion, shall be at least equal to the greater of (x) the loan-to-value ratio for the

Properties as of the date hereof and (y) the loan-to-value ratio for the Properties immediately preceding the release of the Individual Property based on the appraisal delivered to Lender in connection with the making of the Loan or, at Lender's election, as determined in its sole discretion, by an updated appraisal satisfactory to Lender in all respects obtained by Lender at Borrower's sole cost and expense;

(c) At the request of Lender, Borrower shall execute an amendment to this Loan Agreement and the Mortgages and any of the other Loan Documents in order to effectuate the terms of this Section 2.5 and Borrower shall pay all of Lender's actual costs associated with amending such documents;

(d) After giving effect to such Release, the legal and financial structure of each Individual Borrower and its managers or members, and the single purpose nature and bankruptcy remoteness of each Individual Borrower and its managers or members shall satisfy in all respects this Agreement and Lender's then current applicable underwriting criteria and requirements, including, without limitation, the requirement, at the request of Lender or the Rating Agencies, to deliver written confirmation from the Rating Agencies that such Partial Release Event will not result in a qualification, downgrade or withdrawal of the applicable ratings;

(e) Borrower shall deliver to Lender an endorsement, at Borrower's sole cost and expense, to Lender's policy of title insurance (or an irrevocable commitment to issue such an endorsement), in form and substance reasonably satisfactory to Lender and insuring that the priority of Lender's lien created by the Mortgage, shall not be impaired as a result of the Partial Release Event;

(f) Borrower shall deliver to Lender such other certificates, documents or instruments as Lender may reasonably require in connection with such release, together with an Officer's Certificate certifying that such documentation (a) is in compliance with all Legal Requirements and (b) will effect such releases in accordance with the terms of this Agreement;

(g) Borrower shall or shall cause Mezzanine Borrowers to pay to Lender the applicable Mezzanine Adjusted Release Amount for the Mezzanine Loans of the Individual Property, provided that Lender shall distribute all such payments described in this clause (g) to the Mezzanine Lenders in accordance with Section 2.7.2(b); and

(h) Following the Release of an Individual Property pursuant to this Section 2.5.4, Lender shall adjust (if applicable) the amounts required to be deposited by Borrower into the Tax and Insurance Escrow Fund and the Replacement Reserve Fund, as determined by Lender in its sole but good faith discretion.

Section 2.6. Release of Property. Except as set forth in this Section 2.6, no repayment, prepayment or defeasance of all or any portion of the Loan shall cause, give rise to a right to require, or otherwise result in, the release of any Lien of any Mortgage on any Individual Property.

2.6.1 Release upon Defeasance. (a) If Borrower has elected to defease the entire Loan and the requirements of Section 2.5 and this Section 2.6 have been satisfied, the

Property shall be released from the Lien of the Mortgage and the U.S. Obligations, pledged pursuant to the Security Agreement, shall be the sole source of collateral securing the Note.

(b) In connection with the release of the Mortgage, Borrower shall submit to Lender, not less than thirty (30) days prior to the Defeasance Date, a release of Lien (and related Loan Documents) for the Property for execution by Lender. Such release shall be in a form appropriate in the jurisdiction in which the Property is located and that would be satisfactory to a prudent lender. In addition, Borrower shall provide all other documentation Lender reasonably requires to be delivered by Borrower in connection with such release, together with an Officer's Certificate certifying that such documentation (i) is in compliance with all Legal Requirements, and (ii) will effect such releases in accordance with the terms of this Agreement.

2.6.2 Release on Payment in Full. Lender shall, upon the written request and at the expense of Borrower, upon payment in full of all principal and interest due on the Loan and all other amounts due and payable under the Loan Documents in accordance with the terms and provisions of the Note and this Agreement, release the Lien of the Mortgage.

Section 2.7. Cash Management.

2.7.1 Lockbox Account. (a) On the date hereof, Borrower shall establish and maintain a segregated Eligible Account (the "Lockbox Account") with Lockbox Bank in trust for the benefit of Lender, which Lockbox Account shall be under the sole dominion and control of Lender. The Lockbox Account shall be entitled "Column Financial, Inc., as Lender, pursuant to Loan Agreement dated as of October 31, 2006-Lockbox Account." Borrower hereby grants to Lender a first priority security interest in the Lockbox Account and all deposits at any time contained therein and the proceeds thereof and will take all actions necessary to maintain in favor of Lender a perfected first priority security interest in the Lockbox Account, including, without limitation, executing and filing UCC-1 Financing Statements and continuations thereof. Lender and Servicer shall have the sole right to make withdrawals from the Lockbox Account and all costs and expenses for establishing and maintaining the Lockbox Account shall be paid by Borrower. Commencing on the date hereof and continuing until repayment of the Loan in full, Borrower shall cause Lockbox Bank to sweep all available funds held and maintained in the Lockbox Account to the Cash Management Account pursuant to, and in accordance with the terms of the Instruction Letter (as defined in the Cash Management Agreement).

(b) Upon the occurrence of an Event of Default that is continuing beyond any applicable cure period provided for herein, at Lender's option, Borrower shall, or shall cause Manager to, deliver written instructions to all tenants under Leases to deliver all Rents payable thereunder directly to the Lockbox Account. Until the occurrence of an Event of Default, Borrower shall, or shall cause Manager, to collect all Rents, other than security deposits (which Rents shall be collected for the benefit of Lender), and Borrower shall, and shall cause Manager to, deposit all amounts received by Borrower or Manager constituting Rents (other than tenant security deposits, until the occurrence of an Event of Default which continues beyond any cure period provided for herein and the acceleration by Lender of the Debt, at which time Borrower or Manager shall also deposit all tenant security deposits into a segregated deposit

account established by Lender, to the extent permitted by applicable Legal Requirements) into the Lockbox Account within two (2) Business Days after receipt.

(c) Borrower shall obtain from Lockbox Bank its agreement to transfer to the Cash Management Account in immediately available funds by federal wire transfer all amounts on deposit in the Lockbox Account once every Business Day throughout the term of the Loan.

(d) The sufficiency of funds on deposit in the Lockbox Account shall not relieve Borrower from the obligation to make any payments, as and when due pursuant to this Agreement and the other Loan Documents, and such obligations shall be separate and independent, and not conditioned on any event or circumstance whatsoever.

2.7.2 Cash Management Account. (a) Borrower shall establish and maintain a segregated Eligible Account (the "Cash Management Account") to be held by Servicer in trust for the benefit of Lender, which Cash Management Account shall be under the sole dominion and control of Lender. The Cash Management Account shall be entitled "Column Financial, Inc., as Lender, pursuant to Loan Agreement dated as of October 31, 2006 - Cash Management Account." Borrower shall cause to be deposited, all amounts received by, or on behalf of, Borrower constituting Rents into the Cash Management Account within one (1) Business Day after receipt thereof. Borrower (i) hereby grants to Lender a first priority security interest in the Cash Management Account and all deposits at any time contained therein and the proceeds thereof and (ii) will take all actions necessary to maintain in favor of Lender a perfected first priority security interest in the Cash Management Account, including, without limitation, executing and filing UCC-1 Financing Statements and continuations thereof. Borrower will not in any way alter or modify the Cash Management Account and will notify Lender of the account number thereof. Lender and Servicer shall have the sole right to make withdrawals from the Cash Management Account and all costs and expenses for establishing and maintaining the Cash Management Account shall be paid by Borrower.

(b) Provided no Event of Default shall have occurred and be continuing, on each Payment Date (or, if such Payment Date is not a Business Day, on the immediately preceding Business Day) all funds on deposit in the Cash Management Account shall be applied by Lender to the payment of the following items in the order indicated:

(i) First, payments to the Tax and Insurance Escrow Fund in accordance with the terms and conditions of Section 7.2 hereof;

(ii) Second, payment to Lender of the Monthly Interest Payment, applied first to the payment of interest computed at the Interest Rate with the remainder, if any, applied to the reduction of the outstanding principal balance of the Note;

(iii) Third, payments to the Replacement Reserve Fund in accordance with the terms and conditions of Section 7.3 hereof;

(iv) Fourth, payment to the Lender of any other amounts then due and payable under the Loan Documents;

(v) Fifth, payments to Borrower for monthly Cash Expenses (which Cash Expenses shall not include any payment required to be made by Borrower to the Asset Manager pursuant to the Asset Management Agreement) incurred in accordance with the related Approved Annual Budget pursuant to a written request for payment submitted by Borrower to Lender specifying the individual Cash Expenses in a form acceptable to Lender;

(vi) Sixth, payments to Borrower for Extraordinary Expenses approved by Lender, if any;

(vii) Seventh, so long as no Event of Default shall have occurred and is continuing, and some or all of the Mezzanine Loans remain outstanding and unpaid, funds necessary to pay the aggregate actual Mezzanine Monthly Debt Service Payment Amount (which may include a draw from the Interest Reserve to an amount equal to the Interest Shortfall, with respect to the Mezzanine Monthly Debt Service Payment amount only (but not including any interest at the Default Rate, as such term is defined in the Mezzanine Loan Agreements), which Interest Shortfall amount (in any given month) shall not exceed \$450,000.00 in the aggregate) shall be (a) if the Mezzanine A Loan is then outstanding, transferred to the Mezzanine A Collection Account under the Mezzanine A Cash Management Agreement; (b) if the Mezzanine A Loan has been repaid in full, and the Mezzanine B Loan is then outstanding, transferred to the Mezzanine B Collection Account under the Mezzanine B Cash Management Agreement; and (c) if the Mezzanine B Loan and the Mezzanine B Loan have each been repaid in full and the Mezzanine C Loan is then outstanding, transferred to the Mezzanine C Collection Account under the Mezzanine C Cash Management Agreement;

(viii) Eighth, provided no Event of Default has occurred and is continuing, to the Mezzanine A Cash Management Account as specified by Lender until Lender shall have received notice from Mezzanine A Lender that the Mezzanine A Loan has been repaid in full, all amounts remaining in the Cash Management Account or the subaccounts thereof ("Excess Cash Flow");

(ix) Ninth, provided no Event of Default has occurred and is continuing, to the Mezzanine B Cash Management Account as specified by Lender until Lender shall have received notice from Mezzanine B Lender that the Mezzanine B Loan has been repaid in full, the Excess Cash Flow;

(x) Tenth, provided no Event of Default has occurred and is continuing, to the Mezzanine C Cash Management Account as specified by Lender until Lender shall have received notice from Mezzanine C Lender that the Mezzanine C Loan has been repaid in full, the Excess Cash Flow; and

(xi) Lastly, provided (x) no Event of Default is occurring, and (y) the Mezzanine Loans have been paid in full, all amount remaining in the Cash Management Account shall be remitted to the Borrower Remainder Account.

(c) The insufficiency of funds on deposit in the Cash Management Account shall not relieve Borrower from the obligation to make any payments, as and when due pursuant to this Agreement and the other Loan Documents, and such obligations shall be separate and independent, and not conditioned on any event or circumstance whatsoever.

(d) All funds on deposit in the Cash Management Account following the occurrence of an Event of Default may be applied by Lender in such order and priority as Lender shall determine from time to time, until the Debt is paid in full, with any amounts remaining being disbursed (i) if the Mezzanine A Loan is then outstanding, to the Mezzanine A Lender for application by Mezzanine A Lender in accordance with the terms of the First Mezzanine Loan Documents; (ii) if the Mezzanine A Loan has been repaid in full and the Mezzanine B Loan is then outstanding, to Mezzanine B Lender for application by the Mezzanine B Lender in accordance with the terms of the Mezzanine B Loan Documents; (iii) if the Mezzanine A Loan and the Mezzanine B Loan have each been repaid in full and the Mezzanine C Loan is then outstanding, to Mezzanine C Lender for application by the Mezzanine C Lender in accordance with the terms of the Mezzanine C Loan Documents; and (iv) if the Mezzanine A Loan, the Mezzanine B Loan and the Mezzanine C Loan have all been repaid in full, to Borrower.

(e) So long as no Event of Default shall have occurred and is continuing, Lender shall apply funds received pursuant to Section 2.4.5(i) or Section 2.5.4(g) in the following order:

(i) (a) if the Mezzanine A Loan is then outstanding, transfer the Mezzanine Adjusted Release Amount with respect to Mezzanine Loan A to the Mezzanine A Collection Account under the Mezzanine A Cash Management Agreement, and (b) if the Mezzanine A Loan is then outstanding and if there is a Mezzanine A Loan Event of Default, transfer the entire remaining Mezzanine Adjusted Release Amount to the Mezzanine A Collection Account under the Mezzanine A Cash Management Agreement until the Mezzanine A Loan has been paid in full;

(ii) (a) if the Mezzanine B Loan is then outstanding and if there is no Mezzanine A Loan Event of Default, transfer the Mezzanine Adjusted Release Amount with respect to Mezzanine Loan B to the Mezzanine B Collection Account under the Mezzanine A Cash Management Agreement, and (b) if the Mezzanine B Loan is then outstanding and if there is a Mezzanine A Loan Event of Default, transfer the entire remaining Mezzanine Adjusted Release Amount to the Mezzanine B Collection Account under the Mezzanine B Cash Management Agreement until the Mezzanine B Loan has been paid in full;

(iii) if the Mezzanine C Loan is then outstanding and there is no Mezzanine A Loan Event of Default or Mezzanine B Loan Event of Default, transfer the entire remaining Mezzanine Adjusted Release Amount to the Mezzanine C Collection Account under the Mezzanine C Cash Management Agreement until the Mezzanine C Loan has been paid in full; and

(iv) thereafter any remaining funds shall be retained by Lender and applied by Lender as if such amounts were part of the Adjusted Release Amount for the

Individual Property then being released to have been received by Lender pursuant to this Agreement.

2.7.3 Payments Received Under the Cash Management Agreement.

Notwithstanding anything to the contrary contained in this Agreement and the other Loan Documents, and provided no Event of Default has occurred and is continuing, Borrower's obligations with respect to the payment of the Monthly Interest Payment and amounts due for the Tax and Insurance Escrow Fund, Replacement Reserve Fund and any other payment reserves established pursuant to this Agreement or any other Loan Document shall be deemed satisfied to the extent sufficient amounts are deposited in the Cash Management Account established pursuant to the Cash Management Agreement to satisfy such obligations on the dates each such payment is required, regardless of whether any of such amounts are so applied by Lender.

III. CONDITIONS PRECEDENT

Section 3.1. Conditions Precedent to Closing. The obligation of Lender to make the Loan hereunder is subject to the fulfillment by Borrower or waiver by Lender of the following conditions precedent no later than the Closing Date:

3.1.1 Representations and Warranties; Compliance with Conditions. The representations and warranties of Borrower contained in this Agreement and the other Loan Documents shall be true and correct in all material respects on and as of the Closing Date with the same effect as if made on and as of such date, and no Default or an Event of Default shall have occurred and be continuing; and Borrower shall be in compliance in all material respects with all terms and conditions set forth in this Agreement and in each other Loan Document on its part to be observed or performed.

3.1.2 Loan Agreement and Note. Lender shall have received a copy of this Agreement and the Note, in each case, duly executed and delivered on behalf of Borrower.

3.1.3 Delivery of Loan Documents; Title Insurance; Reports; Leases. (a) **Mortgage, Assignment of Leases.** Lender shall have received from Borrower fully executed and acknowledged counterparts of the Mortgages and the Assignments of Leases and evidence that counterparts of the Mortgages and Assignments of Leases have been delivered to the title company for recording, in the reasonable judgment of Lender, so as to effectively create upon such recording valid and enforceable first priority Liens upon each Individual Property in favor of Lender (or such trustee as may be required or desired under local law), subject only to the Permitted Encumbrances and such other Liens as are permitted pursuant to the Loan Documents. Lender shall have also received from Borrower fully executed counterparts of the other Loan Documents.

(b) **Title Insurance.** Lender shall have received Title Insurance Policies issued by a title company acceptable to Lender and dated as of the Closing Date, with reinsurance and direct access agreements acceptable to Lender with respect to each Individual Property. Such Title Insurance Policies shall (i) provide coverage in amounts satisfactory to Lender, (ii) insure Lender that the relevant Mortgage creates a valid first lien on the Individual

Property encumbered thereby, free and clear of all exceptions from coverage other than Permitted Encumbrances and standard exceptions and exclusions from coverage (as modified by the terms of any endorsements), (iii) contain such endorsements and affirmative coverages as Lender may reasonably request, and (iv) name Lender as the insured. The Title Insurance Policies shall be assignable. Lender also shall have received evidence that all premiums in respect of such Title Insurance Policies have been paid.

(c) **Survey.** Lender shall have received a current Survey for each Individual Property, certified to the title company and Lender and their successors and assigns, in form and content satisfactory to Lender and prepared by a professional and properly licensed land surveyor satisfactory to Lender in accordance with the Accuracy Standards for ALTA/ACSM Land Title Surveys as adopted by ALTA, American Congress on Surveying & Mapping and National Society of Professional Surveyors in 1999. The Survey shall reflect the same legal description contained in the Title Insurance Policies relating to such Individual Property and shall include, among other things, a metes and bounds description of the real property comprising part of such Individual Property reasonably satisfactory to Lender. The surveyor's seal shall be affixed to each Survey and the surveyor shall provide a certification for each Survey in form and substance acceptable to Lender.

(d) **Insurance.** Lender shall have received valid certificates of insurance for the Policies required hereunder, satisfactory to Lender in its sole discretion, and evidence of the payment of all Insurance Premiums payable for the existing policy period.

(e) **Environmental Reports.** Lender shall have received a Phase I environmental report (and, if recommended by the Phase I environmental report, a Phase II environmental report) in respect of each Individual Property, in each case satisfactory in form and substance to Lender.

(f) **Zoning.** With respect to each Individual Property, Lender shall have received, at Lender's option, either (i) (A) letters or other evidence with respect to the Property from the appropriate municipal authorities (or other Persons) concerning applicable zoning and building laws, and (B) an ALTA 3.1 zoning endorsement for the Title Insurance Policy or (ii) a zoning opinion letter, in each case in substance reasonably satisfactory to Lender. Notwithstanding the foregoing, Borrower shall have delivered to Lender a zoning report from The Planning & Zoning Resource Corporation (or other nationally recognized zoning consultant) indicating that each Individual Property is in full compliance (or is legally non-conforming) with all applicable Legal Requirements.

(g) **Encumbrances.** Borrower shall have taken or caused to be taken such actions in such a manner so that Lender has a valid and perfected first priority Lien as of the Closing Date with respect to each Mortgage on the applicable Individual Property, subject only to applicable Permitted Encumbrances and such other Liens as are permitted pursuant to the Loan Documents, and Lender shall have received satisfactory evidence thereof.

3.1.4 Related Documents. Each additional document not specifically referenced herein, but relating to the transactions contemplated herein, shall be in form and substance reasonably satisfactory to Lender, and shall have been duly authorized, executed and

delivered by all parties thereto and Lender shall have received and approved certified copies thereof.

3.1.5 Delivery of Organizational Documents. Borrower shall deliver or cause to be delivered to Lender copies certified by Borrower of all organizational documentation related to Borrower and/or the formation, structure, existence, good standing and/or qualification to do business, as Lender may request in its sole discretion, including, without limitation, good standing certificates, qualifications to do business in the appropriate jurisdictions, resolutions authorizing the entering into of the Loan and incumbency certificates as may be reasonably requested by Lender.

3.1.6 Opinions of Borrower's Counsel. Lender shall have received opinions from Borrower's counsel with respect to non-consolidation and the due execution, authority, enforceability of the Loan Documents, Delaware "single member" and such other matters as Lender may require, all such opinions in form, scope and substance reasonably satisfactory to Lender and Lender's counsel in their sole discretion.

3.1.7 Budgets. Borrower shall have delivered, and Lender shall have approved, the Annual Budget for the current Fiscal Year.

3.1.8 Basic Carrying Costs. Borrower shall have paid all Basic Carrying Costs relating to the Properties which are in arrears, including without limitation, (a) accrued but unpaid Insurance Premiums, (b) currently due Taxes (including any in arrears) and (c) currently due Other Charges, which amounts shall be funded with proceeds of the Loan.

3.1.9 Completion of Proceedings. All corporate and other proceedings taken or to be taken in connection with the transactions contemplated by this Agreement and other Loan Documents and all documents incidental thereto shall be satisfactory in form and substance to Lender, and Lender shall have received all such counterpart originals or certified copies of such documents as Lender may reasonably request.

3.1.10 Payments. All payments, deposits or escrows required to be made or established by Borrower under this Agreement, the Note and the other Loan Documents on or before the Closing Date shall have been paid.

3.1.11 Intentionally Omitted.

3.1.12 Transaction Costs. Borrower shall have paid or reimbursed Lender for all title insurance premiums, recording and filing fees, costs of environmental reports, Physical Conditions Reports, appraisals and other reports, the fees and costs of Lender's counsel and all other third party out-of-pocket expenses incurred in connection with the origination of the Loan.

3.1.13 Material Adverse Change. There shall have been no material adverse change in the financial condition or business condition of Borrower, Mezzanine Borrowers or the Properties since the date of the most recent financial statements delivered to Lender. The income and expenses of the Properties, the occupancy thereof, and all other features of the transaction shall be as represented to Lender without material adverse change. Neither

Borrower, Mezzanine Borrowers nor any of its constituent Persons shall be the subject of any bankruptcy, reorganization, or insolvency proceeding.

3.1.14 Leases and Rent Roll. Lender shall have received copies of all commercial or office Leases and certified copies of any Leases as requested by Lender. Lender shall have received a current certified rent roll with respect to each Individual Property, reasonably satisfactory in form and substance to Lender.

3.1.15 Subordination and Attornment. Lender shall have received appropriate instruments acceptable to Lender subordinating all of the commercial Leases, if any, designated by Lender to the applicable Mortgage. Lender shall have received an agreement to attorn to Lender satisfactory to Lender from any tenant under a Lease that does not provide for such attornment by its terms.

3.1.16 Tax Lot. Lender shall have received evidence that the Property constitutes one (1) or more separate tax lots, which evidence shall be reasonably satisfactory in form and substance to Lender.

3.1.17 Physical Conditions Reports. Lender shall have received Physical Conditions Reports with respect to each Individual Property, which reports shall be reasonably satisfactory in form and substance to Lender.

3.1.18 Management Agreements. Lender shall have received a copy of the Management Agreement and Asset Management Agreement which shall all be reasonably satisfactory in form and substance to Lender.

3.1.19 Appraisal. Lender shall have received an appraisal of each Individual Property, which shall be satisfactory in form and substance to Lender.

3.1.20 Financial Statements. Lender shall have received a balance sheet with respect to each Individual Property for the two most recent Fiscal Years and statements of income and statements of cash flows with respect to each Individual Property for the three most recent Fiscal Years, each in form and substance satisfactory to Lender.

3.1.21 Further Documents. Lender or its counsel shall have received such other and further approvals, opinions, documents and information as Lender or its counsel may have reasonably requested including the Loan Documents in form and substance satisfactory to Lender and its counsel.

3.1.22 Equity Contribution. Lender shall have received evidence of the contribution of cash equity by Borrower in an aggregate amount of not less than Thirteen Million Five Hundred Thousand and No/100 Dollars (\$13,500,000.00), which evidence shall be satisfactory in form and substance to Lender.

IV. REPRESENTATIONS AND WARRANTIES

Section 4.1. Borrower Representations. Each Individual Borrower represents and warrants (as to itself in each instance where the representation or warranty relates to

Borrower or Individual Borrower and as to its Individual Property where the representation or warranty relates to the Properties or Individual Property) as of the date hereof and as of the Closing Date that:

4.1.1 Organization. Borrower has been duly organized and is validly existing and in good standing in the jurisdiction in which it is organized, with requisite power and authority to own its properties and to transact the businesses in which it is now engaged. Borrower is duly qualified to do business and is in good standing in each jurisdiction where it is required to be so qualified in connection with its properties, businesses and operations. Borrower possesses all rights, licenses, permits and authorizations, governmental or otherwise, necessary to entitle it to own its properties and to transact the businesses in which it is now engaged, and the sole business of Borrower is the ownership, management and operation of the Properties. The ownership interests of Borrower are as set forth on the organizational chart attached hereto as Schedule III. As of the date hereof, the structural chart of each Borrower set forth on Schedule III attached hereto is true, complete and correct in all respects. As of the date hereof, no Person other than those Persons shown on Schedule III annexed hereto have any direct or indirect ownership interest in, or right to control, directly or indirectly, any Borrower.

4.1.2 Proceedings. Borrower has taken all necessary action to authorize the execution, delivery and performance of this Agreement and the other Loan Documents to which it is a party. This Agreement and the other Loan Documents to which it is a party have been duly executed and delivered by or on behalf of Borrower and constitute the legal, valid and binding obligations of Borrower enforceable against Borrower in accordance with their respective terms, subject only to applicable bankruptcy, insolvency and similar laws affecting rights of creditors generally, and subject, as to enforceability, to general principles of equity (regardless of whether enforcement is sought in a proceeding in equity or at law).

4.1.3 No Conflicts. The execution, delivery and performance of this Agreement and the other Loan Documents by Borrower will not conflict with or result in a breach of any of the terms or provisions of, or constitute a default under, or result in the creation or imposition of any lien, charge or encumbrance (other than pursuant to the Loan Documents) upon any of the property or assets of Borrower pursuant to the terms of any indenture, mortgage, deed of trust, loan agreement, partnership agreement, management agreement or other agreement or instrument to which Borrower is a party or by which any of Borrower's property or assets is subject, nor will such action result in any violation of the provisions of any statute or any order, rule or regulation of any Governmental Authority having jurisdiction over Borrower or any of Borrower's properties or assets, and any consent, approval, authorization, order, registration or qualification of or with any such Governmental Authority required for the execution, delivery and performance by Borrower of this Agreement or any other Loan Documents has been obtained and is in full force and effect.

4.1.4 Litigation. There are no actions, suits or proceedings at law or in equity by or before any Governmental Authority or other agency now pending or, to Borrower's knowledge, threatened against or affecting Borrower, Mezzanine Borrowers, Principal, Guarantor or any Individual Property, which actions, suits or proceedings, if determined against Borrower, Mezzanine Borrowers, Principal, Guarantor or such Individual Property,

might materially adversely affect the condition (financial or otherwise) or business of Borrower, Mezzanine Borrowers, Principal, Guarantor or the condition or ownership of any Individual Property.

4.1.5 Agreements. Borrower is not a party to any agreement or instrument or subject to any restriction which might materially and adversely affect Borrower or any Individual Property, or Borrower's business, properties or assets, operations or condition, financial or otherwise. Borrower is not in default in any material respect in the performance, observance or fulfillment of any of the obligations, covenants or conditions contained in any agreement or instrument to which it is a party or by which Borrower or any Individual Property is bound. Borrower has no material financial obligation under any indenture, mortgage, deed of trust, loan agreement or other agreement or instrument to which Borrower is a party or by which Borrower or any Individual Property is otherwise bound, other than (a) obligations incurred in the ordinary course of the operation of the Properties as permitted pursuant to clause (t) of the definition of "Special Purpose Entity" set forth in Section 1.1 hereof and (b) obligations under the Loan Documents.

4.1.6 Title. Borrower has good, marketable and insurable fee simple title to the real property comprising part of each Individual Property and good title to the balance of such Individual Property, free and clear of all Liens whatsoever except the Permitted Encumbrances, such other Liens as are permitted pursuant to the Loan Documents and the Liens created by the Loan Documents. The Permitted Encumbrances in the aggregate do not materially and adversely affect the value, operation or use of the applicable Individual Property (as currently used) or Borrower's ability to repay the Loan. Each Mortgage, when properly recorded in the appropriate records, together with any Uniform Commercial Code financing statements required to be filed in connection therewith, will create (a) a valid, perfected first priority lien in and to Borrower's right, title and interest to the applicable Individual Property, subject only to Permitted Encumbrances and the Liens created by the Loan Documents and (b) perfected security interests in and to, and perfected collateral assignments of, all personally (including the Leases), all in accordance with the terms thereof, in each case subject only to any applicable Permitted Encumbrances, such other Liens as are permitted pursuant to the Loan Documents and the Liens created by the Loan Documents. Except as expressly disclosed in the Title Insurance Policy, there are no claims for payment for work, labor or materials affecting the Properties which are or may become a Lien prior to, or of equal priority with, the Liens created by the Loan Documents.

4.1.7 Solvency. Borrower has (a) not entered into the transactions contemplated by this Agreement or executed the Note, this Agreement or any other Loan Documents with the actual intent to hinder, delay or defraud any creditor and (b) received reasonably equivalent value in exchange for its obligations under such Loan Documents. The fair saleable value of Borrower's assets exceeds and will, immediately following the making of the Loan, exceed Borrower's total liabilities, including, without limitation, subordinated, unliquidated, disputed and contingent liabilities. The fair saleable value of Borrower's assets is and will, immediately following the making of the Loan, be greater than Borrower's probable liabilities, including the maximum amount of its contingent liabilities on its debts as such debts become absolute and matured. Borrower's assets do not and, immediately following the making of the Loan will not, constitute unreasonably small capital to carry out its business as

conducted or as proposed to be conducted. Borrower does not intend to, and does not believe that it will, incur debt and liabilities (including contingent liabilities and other commitments) beyond its ability to pay such debt and liabilities as they mature (taking into account the timing and amounts of cash to be received by Borrower and the amounts to be payable on or in respect of obligations of Borrower). No petition in bankruptcy has been filed and served against Borrower or any constituent Person, and neither Borrower nor any constituent Person has ever made an assignment for the benefit of creditors or taken advantage of any insolvency act for the benefit of debtors. Neither Borrower nor any of its constituent Persons are contemplating either the filing of a petition by it under any state or federal bankruptcy or insolvency laws or the liquidation of all or a major portion of Borrower's assets or properties, and Borrower has no knowledge of any Person contemplating the filing of any such petition against it or such constituent Persons.

4.1.8 Full and Accurate Disclosure. No statement of fact made by Borrower in this Agreement or in any of the other Loan Documents contains any untrue statement of a material fact or omits to state any material fact necessary to make statements contained herein or therein not misleading. There is no material fact presently known to Borrower which has not been disclosed to Lender which adversely affects, nor as far as Borrower can foresee, might adversely affect, any Individual Property or the business, operations or condition (financial or otherwise) of Borrower.

4.1.9 No Plan Assets. Borrower does not sponsor, is not obligated to contribute to, and is not itself an "employee benefit plan," as defined in Section 3(3) of ERISA, subject to Title I of ERISA or Section 4975 of the Code, and none of the assets of Borrower constitutes or will constitute "plan assets" of one or more such plans within the meaning of 29 C.F.R. Section 2510.3-101. In addition, (a) Borrower is not a "governmental plan" within the meaning of Section 3(32) of ERISA and (b) transactions by or with Borrower are not subject to any state or other statute, regulation or other restriction regulating investments of, or fiduciary obligations with respect to, governmental plans within the meaning of Section 3(32) of ERISA which is similar to the provisions of Section 406 of ERISA or Section 4975 of the Code and which prohibit or otherwise restrict the transactions contemplated by this Loan Agreement including, but not limited to, the exercise by Lender of any of its rights under the Loan Documents.

4.1.10 Compliance. To Borrower's knowledge, Borrower and the Properties (including the use thereof) comply in all material respects with all applicable Legal Requirements, including, without limitation, building and zoning ordinances and codes and Prescribed Laws. Borrower is not in default or violation of any order, writ, injunction, decree or demand of any Governmental Authority. There has not been committed by Borrower or any other Person in occupancy of or involved with the operation or use of the Properties any act or omission affording the federal government or any other Governmental Authority the right of forfeiture as against any Individual Property or any part thereof or any monies paid in performance of Borrower's obligations under any of the Loan Documents.

4.1.11 Financial Information. All financial data, including, without limitation, the statements of cash flow and income and operating expense, that have been delivered to Lender in connection with the Loan (i) are true, complete and correct in all

material respects, (ii) accurately represent the financial condition of the Properties as of the date of such reports, and (iii) to the extent prepared or audited by an independent certified public accounting firm, have been prepared in accordance with GAAP throughout the periods covered, except as disclosed therein. Except for Permitted Encumbrances, Borrower does not have any contingent liabilities, liabilities for taxes, unusual forward or long-term commitments or unrealized or anticipated losses from any unfavorable commitments that are known to Borrower and reasonably likely to have a materially adverse effect on any Individual Property or the operation thereof as a multifamily complex, except as referred to or reflected in said financial statements. Since the date of such financial statements, there has been no material adverse change in the financial condition, operation or business of Borrower from that set forth in said financial statements.

4.1.12 Condemnation. No Condemnation or other similar proceeding has been commenced or, to Borrower's best knowledge, is threatened or contemplated with respect to all or any portion of any Individual Property or for the relocation of roadways providing access to any Individual Property.

4.1.13 Federal Reserve Regulations. No part of the proceeds of the Loan will be used for the purpose of purchasing or acquiring any "margin stock" within the meaning of Regulation U of the Board of Governors of the Federal Reserve System or for any other purpose which would be inconsistent with such Regulation U or any other Regulations of such Board of Governors, or for any purposes prohibited by Legal Requirements or by the terms and conditions of this Agreement or the other Loan Documents.

4.1.14 Utilities and Public Access. Each Individual Property has rights of access to public ways and is served by water, sewer, sanitary sewer and storm drain facilities adequate to service such Individual Property for its respective intended uses. All public utilities necessary or convenient to the full use and enjoyment of each Individual Property are located either in the public right-of-way abutting such Individual Property (which are connected so as to serve such Individual Property without passing over other property) or in recorded easements serving such Individual Property and such easements are set forth in and insured by the Title Insurance Policies. All roads necessary for the use of each Individual Property for their current respective purposes have been completed and dedicated to public use and accepted by all Governmental Authorities.

4.1.15 Not a Foreign Person. Borrower is not a "foreign person" within the meaning of §1445(f)(3) of the Code.

4.1.16 Separate Lots. Each Individual Property is comprised of one (1) or more parcels which constitute a separate tax lot or lots and does not constitute a portion of any other tax lot not a part of such Individual Property.

4.1.17 Assessments. There are no pending or proposed special or other assessments for public improvements or otherwise affecting any Individual Property, nor are there any contemplated improvements to any Individual Property that may result in such special or other assessments.

4.1.18 Enforceability. The Loan Documents are not subject to any right of rescission, set-off, counterclaim or defense by Borrower, Principal or Guarantor, including the defense of usury, nor would the operation of any of the terms of the Loan Documents, or the exercise of any right thereunder, render the Loan Documents unenforceable (subject to principles of equity and bankruptcy, insolvency and other laws generally affecting creditors' rights and the enforcement of debtors' obligations), and Borrower, Principal and Guarantor have not asserted any right of rescission, set-off, counterclaim or defense with respect thereto.

4.1.19 No Prior Assignment. There are no prior assignments of the Leases or any portion of the Rents due and payable or to become due and payable which are presently outstanding.

4.1.20 Insurance. Borrower has obtained and has delivered to Lender certified copies of all Policies reflecting the insurance coverages, amounts and other requirements set forth in this Agreement. To the best of Borrower's knowledge, no claims have been made under any such Policies, and no Person, including Borrower, has done, by act or omission, anything which would impair the coverage of any such Policies.

4.1.21 Use of Property. Each Individual Property is used exclusively as a multifamily building and other appurtenant and related uses.

4.1.22 Certificate of Occupancy; Licenses. To the best of Borrower's knowledge, all certifications, permits, licenses and approvals, including without limitation, certificates of completion and occupancy permits required for the legal use, occupancy and operation of each Individual Property as a multifamily building (collectively, the "Licenses"), have been obtained and are in full force and effect. Borrower shall keep and maintain all Licenses necessary for the operation of each Individual Property as a multifamily building. The use being made of each Individual Property is in conformity with the certificate of occupancy issued for such Individual Property.

4.1.23 Flood Zone. None of the Improvements on any Individual Property is located in an area as identified by the Federal Emergency Management Agency as an area having special flood hazards or, if so located, the flood insurance required pursuant to Section 6.1(a)(i) is in full force and effect with respect to each such Individual Property.

4.1.24 Physical Condition. Except as disclosed to Lender in writing, each Individual Property, including, without limitation, all buildings, improvements, parking facilities, sidewalks, storm drainage systems, roofs, plumbing systems, HVAC systems, fire protection systems, electrical systems, equipment, elevators, exterior sidings and doors, landscaping, irrigation systems and all structural components, are in good condition, order and repair in all material respects; there exists no structural or other material defects or damages in its Individual Property, whether latent or otherwise, and Individual Borrower has not received notice from any insurance company or bonding company of any defects or inadequacies in its Individual Property, or any part thereof, which would adversely affect the insurability of the same or cause the imposition of extraordinary premiums or charges thereon or of any termination or threatened termination of any policy of insurance or bond.

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4.1.25 Boundaries. All of the improvements which were included in determining the appraised value of the Property lie wholly within the boundaries and building restriction lines of the Property, and no improvements on adjoining properties encroach upon the Property, and no easements or other encumbrances upon the Property encroach upon any of the improvements, so as to affect the value or marketability of the Property except those which are insured against by the Title Insurance Policy or as may be shown on the Survey.

4.1.26 Leases. The Property is not subject to any Leases other than the Leases described in Schedule I attached hereto and made a part hereof. Borrower is the owner and lessor of landlord's interest in the Leases. No Person has any possessory interest in the Property or right to occupy the same except under and pursuant to the provisions of the Leases. The current Leases are in full force and effect and there are no material defaults thereunder by either party and there are no conditions that, with the passage of time or the giving of notice, or both, would constitute defaults thereunder. No Rent has been paid more than one (1) month in advance of its due date. All work, if any, to be performed by Borrower under each Lease has been performed as required and has been accepted by the applicable tenant, and any payments, free rent, partial rent, rebate of rent or other payments, credits, allowances or abatements required to be given by Borrower to any tenant has already been received by such tenant. There has been no prior sale, transfer or assignment, hypothecation or pledge of any Lease or of the Rents received therein which is still in effect. No tenant listed on Schedule I has assigned its Lease or sublet all or any portion of the premises demised thereby, no such tenant holds its leased premises under assignment or sublease, nor does anyone except such tenant occupy such leased premises. No tenant under any Lease has a right or option pursuant to such Lease or otherwise to purchase all or any part of the leased premises or the building of which the leased premises are a part. Except as disclosed on Schedule I, no tenant under any Lease has any right or option for additional space in the Improvements.

4.1.27 Survey. The Survey for each Individual Property delivered to Lender in connection with this Agreement has been prepared in accordance with the provisions of Section 3.1.3(c) hereof, and does not fail to reflect any material matter affecting such Individual Property or the title thereto.

4.1.28 Principal Place of Business; State of Organization. Each Individual Borrower's principal place of business as of the date hereof is the address set forth in the introductory paragraph of this Agreement. Each Individual Borrower is organized under the laws of the State of Delaware other than the following three Individual Borrowers that are organized under the laws of the State of Texas: (i) Austin Texas Wildwood Apartments, LP, (ii) Austin Texas Clubcreek Apartments, LP, and (iii) Village at Riverside Apartments Texas, LP.

4.1.29 Filing and Recording Taxes. All transfer taxes, deed stamps, documentary stamps, intangible taxes or other amounts in the nature of transfer taxes required to be paid by any Person under applicable Legal Requirements currently in effect in connection with the transfer of the Properties to Borrower have been paid. All mortgage, mortgage recording, stamp, intangible or other similar tax required to be paid by any Person under applicable Legal Requirements currently in effect in connection with the execution, delivery, recordation, filing, registration, perfection or enforcement of any of the Loan Documents,

including, without limitation, the Mortgages, have been paid, and, under current Legal Requirements, each of the Mortgages is enforceable in accordance with their respective terms by Lender (or any subsequent holder thereof), subject to principles of equity and bankruptcy, insolvency and other laws generally applicable to creditors' rights and the enforcement of debtors' obligations.

4.1.30 Special Purpose Entity/Separateness. (a) Until the Debt has been paid in full, each Individual Borrower hereby represents, warrants and covenants that it is, shall be and shall continue to be a Special Purpose Entity, (ii) each Mezzanine Borrower is, shall be and shall continue to be a Special Purpose Entity, and (iii) Principal is, shall be and shall continue to be a Special Purpose Entity.

(b) The representations, warranties and covenants set forth in Section 4.1.30(a) shall survive for so long as any amount remains payable to Lender under this Agreement or any other Loan Document.

(c) All of the assumptions made in any Insolvency Opinion, including, but not limited to, any exhibits attached thereto, shall always be and remain true and correct in all respects and any assumptions made in any subsequent non-consolidation opinion required to be delivered in connection with the Loan Documents (an "Additional Insolvency Opinion"), including, but not limited to, any exhibits attached thereto, will have been and shall be true and correct in all respects. Borrower and Mezzanine Borrowers shall comply and will always comply with, and Principal shall comply and Borrower will cause Principal to comply with, all of the assumptions made with respect to such Individual Borrower and Principal in any Insolvency Opinion or Additional Insolvency Opinion. Each Individual Borrower will have complied and will comply with all of the assumptions made with respect to such Individual Borrower and Principal in any Additional Insolvency Opinion, if any. Each entity other than each Individual Borrower and Principal with respect to which an assumption shall be made in any Additional Insolvency Opinion will have complied and will comply with all of the assumptions made with respect to it in any Additional Insolvency Opinion.

4.1.31 Management Agreement/Asset Management Agreement. The Management Agreement and the Asset Management Agreement are in full force and effect and there is no default thereunder by any party thereto and no event has occurred that, with the passage of time and/or the giving of notice would constitute a default thereunder.

4.1.32 Illegal Activity. No portion of any Individual Property has been or will be purchased with proceeds of any illegal activity.

4.1.33 No Change in Facts or Circumstances; Disclosure. All information submitted by Borrower to Lender and in all financial statements, rent rolls, reports, certificates and other documents submitted in connection with the Loan or the Mezzanine Loan or in satisfaction of the terms thereof and all statements of fact made by Borrower or Mezzanine Borrower in this Agreement or in any other Loan Document or Mezzanine Loan Document, are accurate, complete and correct in all material respects. There has been no material adverse change in any condition, fact, circumstance or event that would make any such information inaccurate, incomplete or otherwise misleading in any material respect or that otherwise

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materially and adversely affects or might materially and adversely affect the use, operation or value of the Properties or the business operations or the financial condition of Borrower or Mezzanine Borrowers. Borrower and Mezzanine Borrowers have disclosed to Lender all material facts and has not failed to disclose any material fact that could cause any Provided Information or representation or warranty made herein to be materially misleading.

4.1.34 Investment Company Act. Borrower is not (a) an "investment company" or a company "controlled" by an "investment company," within the meaning of the Investment Company Act of 1940, as amended; (b) a "holding company" or a "subsidiary company" of a "holding company" or an "affiliate" of either a "holding company" or a "subsidiary company" within the meaning of the Public Utility Holding Company Act of 1935, as amended; or (c) subject to any other federal or state law or regulation which purports to restrict or regulate its ability to borrow money.

4.1.35 Embargoed Person. At all times throughout the term of the Loan, including after giving effect to any Transfers permitted pursuant to the Loan Documents, (a) none of the funds or other assets of Borrower, Mezzanine Borrowers, Principal and Guarantor shall constitute property of, or are beneficially owned, directly or indirectly, by any person, entity or government subject to trade restrictions under United States law, including, but not limited to, the International Emergency Economic Powers Act, 50 U.S.C. §§ 1701 et seq., The Trading with the Enemy Act, 50 U.S.C. App. 1 et seq., and any Executive Orders or regulations promulgated thereunder with the result that the investment in Borrower, Mezzanine Borrowers, Principal or Guarantor, as applicable (whether directly or indirectly), is prohibited by law or the Loan made by the Lender is in violation of law ("Embargoed Person"); (b) no Embargoed Person has any interest of any nature whatsoever in Borrower, Principal or Guarantor, as applicable, with the result that the investment in Borrower, Principal or Guarantor, as applicable (whether directly or indirectly), is prohibited by law or the Loan is in violation of law; and (c) none of the funds of Borrower, Mezzanine Borrowers, Principal or Guarantor, as applicable, have been derived from any unlawful activity with the result that the investment in Borrower, Mezzanine Borrowers, Principal or Guarantor, as applicable (whether directly or indirectly), is prohibited by law or the Loan is in violation of law.

4.1.36 Cash Management Account. (a) This Agreement, together with the other Loan Documents, creates a valid and continuing security interest (as defined in the Uniform Commercial Code of the State of New York) in the Lockbox Account and Cash Management Account in favor of Lender, which security interest is prior to all other Liens, other than Permitted Encumbrances, and is enforceable as such against creditors of and purchasers from Borrower. Other than in connection with the Loan Documents and except for Permitted Encumbrances, Borrower has not sold or otherwise conveyed the Lockbox Account and Cash Management Account;

(b) Each of the Lockbox Account and Cash Management Account constitute "deposit accounts" within the meaning of the Uniform Commercial Code of the State of New York);

(c) Pursuant and subject to the terms hereof and the other applicable Loan Documents, the Lockbox Bank has agreed to comply with all instructions originated by

Lender, without further consent by Borrower, directing disposition of the Lockbox Account and all sums at any time held, deposited or invested therein, together with any interest or other earnings thereon, and all proceeds thereof (including proceeds of sales and other dispositions), whether accounts, general intangibles, chattel paper, deposit accounts, instruments, documents or securities; and

(d) The Lockbox Account and Cash Management Account are not in the name of any Person other than Borrower, as pledgor, or Lender, as pledgee.

4.1.37 Mortgage Taxes. Borrower represents that it has paid all state, county and municipal recording and all other taxes imposed upon the execution and recordation of the Mortgages or the Note.

4.1.38 No Affiliation with Charter Capital of Charles Hill. Each Individual Borrower represents that neither Charter Capital nor Charles Hill has been or is currently an Affiliate of any Individual Borrower and/or their respective Affiliates.

Section 4.2. Survival of Representations. Each Individual Borrower agrees that all of the representations and warranties set forth in Section 4.1 and elsewhere in this Agreement and in the other Loan Documents shall survive for so long as any amount remains owing to Lender under this Agreement or any of the other Loan Documents by Borrower. All representations, warranties, covenants and agreements made in this Agreement or in the other Loan Documents by Borrower shall be deemed to have been relied upon by Lender notwithstanding any investigation heretofore or hereafter made by Lender or on its behalf.

V. BORROWER COVENANTS

Section 5.1. Affirmative Covenants. From the date hereof and until payment and performance in full of all obligations of Borrower under the Loan Documents or the earlier release of the Liens of all Mortgages encumbering the Properties (and all related obligations) in accordance with the terms of this Agreement and the other Loan Documents, Borrower hereby covenants and agrees with Lender that:

5.1.1 Existence; Compliance with Legal Requirements. Borrower shall do or cause to be done all things necessary to preserve, renew and keep in full force and effect its existence, rights, licenses, permits and franchises and comply with all Legal Requirements applicable to Borrower and the Properties, including, without limitation, Prescribed Laws. There shall never be committed by Borrower and Borrower shall not permit any other Person in occupancy of or involved with the operation or use of the Properties to commit any act or omission affording the federal government or any state or local government the right of forfeiture against any Individual Property or any part thereof or any monies paid in performance of Borrower's obligations under any of the Loan Documents. Borrower hereby covenants and agrees not to commit, permit or suffer to exist any act or omission affording such right of forfeiture. Borrower shall at all times maintain, preserve and protect all franchises and trade names and preserve all the remainder of its property used or useful in the conduct of its business and shall keep the Properties in good working order and repair, and from time to time make, or cause to be made, all reasonably necessary repairs, renewals,

replacements, betterments and improvements thereto, all as more fully provided in the Mortgages. Borrower shall keep the Properties insured at all times by financially sound and reputable insurers, to such extent and against such risks, and maintain liability and such other insurance, as is more fully provided in this Agreement. Borrower shall operate the Properties in accordance with the terms and provisions of the O&M Agreement in all material respects. After prior notice to Lender, Borrower, at its own expense, may contest by appropriate legal proceeding promptly initiated and conducted in good faith and with due diligence, the validity of any Legal Requirement, the applicability of any Legal Requirement to Borrower or any Individual Property or any alleged violation of any Legal Requirement, provided that (i) no Default or Event of Default has occurred and remains uncured; (ii) Borrower is permitted to do so under the provisions of any mortgage or deed of trust superior in lien to the applicable Mortgage; (iii) such proceeding shall be permitted under and be conducted in accordance with the provisions of any instrument to which Borrower is subject and shall not constitute a default thereunder and such proceeding shall be conducted in accordance with all applicable statutes, laws and ordinances; (iv) neither the applicable Individual Property nor any part thereof or interest therein will be in danger of being sold, forfeited, terminated, cancelled or lost; (v) Borrower shall promptly upon final determination thereof comply with any such Legal Requirement determined to be valid or applicable or cure any violation of any Legal Requirement; (vi) such proceeding shall suspend the enforcement of the contested Legal Requirement against Borrower and the applicable Individual Property; and (vii) Borrower shall furnish such security as may be required in the proceeding, or as may be requested by Lender, to insure compliance with such Legal Requirement, together with all interest and penalties payable in connection therewith. Lender may apply any such security, as necessary to cause compliance with such Legal Requirement at any time when, in the reasonable judgment of Lender, the validity, applicability or violation of such Legal Requirement is finally established or the applicable Individual Property (or any part thereof or interest therein) shall be in danger of being sold, forfeited, terminated, cancelled or lost.

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5.1.2 Taxes and Other Charges. Borrower shall pay all Taxes and Other Charges now or hereafter levied or assessed or imposed against the Properties or any part thereof as the same become due and payable; provided, however, Borrower's obligation to directly pay Taxes shall be suspended for so long as Borrower complies with the terms and provisions of Section 7.2 hereof. Borrower shall deliver to Lender, receipts for the payment (or other evidence satisfactory to Lender that the Taxes and Other Charges have been so paid or are not then delinquent no later than ten (10) days prior to the date on which the Taxes and/or Other Charges would otherwise be delinquent if not paid. Borrower shall furnish to Lender receipts for the payment) of the Taxes and the Other Charges prior to the date the same shall become delinquent provided, however, Borrower is not required to furnish such receipts for payment of Taxes in the event that such Taxes have been paid by Lender pursuant to Section 7.2 hereof. Borrower shall not suffer and shall promptly cause to be paid and discharged any Lien or charge whatsoever which may be or become a Lien or charge against the Properties, and shall promptly pay for all utility services provided to the Properties. After prior notice to Lender, Borrower, at its own expense, may contest by appropriate legal proceeding, promptly initiated and conducted in good faith and with due diligence, the amount or validity or application in whole or in part of any Taxes or Other Charges, provided that (a) no Default or Event of Default has occurred and remains uncured; (b) Borrower is permitted to do so under the provisions of any mortgage or deed of trust superior in lien to the

applicable Mortgage; (c) such proceeding shall be permitted under and be conducted in accordance with the provisions of any other instrument to which Borrower is subject and shall not constitute a default thereunder and such proceeding shall be conducted in accordance with all applicable statutes, laws and ordinances; (d) no Individual Property nor any part thereof or interest therein will be in danger of being sold, forfeited, terminated, cancelled or lost; (e) Borrower shall promptly upon final determination thereof pay the amount of any such Taxes or Other Charges, together with all costs, interest and penalties which may be payable in connection therewith; (f) such proceeding shall suspend the collection of such contested Taxes or Other Charges from Borrower and from the applicable Individual Property, and (g) Borrower shall furnish such security as may be required in the proceeding, or as may be reasonably requested by Lender, to insure the payment of any such Taxes or Other Charges, together with all interest and penalties thereon. Lender may pay over any such cash deposit or part thereof held by Lender to the claimant entitled thereto at any time when, in the judgment of Lender, the entitlement of such claimant is established or any Individual Property (or part thereof or interest therein) shall be in danger of being sold, forfeited, terminated, cancelled or lost or there shall be any danger of the Lien of any Mortgage being primed by any related Lien.

5.1.3 Litigation. Borrower shall give prompt notice to Lender of any litigation or governmental proceedings pending or threatened against any Individual Borrower, any Mezzanine Borrower, Principal and Guarantor which might materially adversely affect Individual Borrower's, Mezzanine Borrowers', Principal's or Guarantor's condition (financial or otherwise) or business or any Individual Property.

5.1.4 Access to Properties. Borrower shall permit agents, representatives and employees of Lender to inspect the Properties or any part thereof at reasonable hours upon reasonable advance notice.

5.1.5 Notice of Default. Borrower shall promptly advise Lender of any material adverse change in any Individual Borrower's, Mezzanine Borrower's Principal's or Guarantor's condition, financial or otherwise, or of the occurrence of any Default or Event of Default of which Borrower has knowledge.

5.1.6 Cooperate in Legal Proceedings. Borrower shall cooperate fully with Lender with respect to any proceedings before any court, board or other Governmental Authority which may in any way affect the rights of Lender hereunder or any rights obtained by Lender under any of the other Loan Documents and, in connection therewith, permit Lender, at its election, to participate in any such proceedings.

5.1.7 Perform Loan Documents. Borrower shall observe, perform and satisfy all the terms, provisions, covenants and conditions of, and shall pay when due all costs, fees and expenses to the extent required under the Loan Documents executed and delivered by, or applicable to, Borrower.

5.1.8 Award and Insurance Benefits. Borrower shall cooperate fully with Lender in obtaining for Lender the benefits of any Awards or Insurance Proceeds lawfully or equitably payable in connection with any Individual Property, and Lender shall be reimbursed for any expenses incurred in connection therewith (including attorneys' fees and disbursements,

and the payment by Borrower of the expense of an appraisal on behalf of Lender in case of Casualty or Condemnation affecting any Individual Property or any part thereof) out of such Award or Insurance Proceeds.

5.1.9 Further Assurances. Borrower shall, at Borrower's sole cost and expense:

(a) furnish to Lender all instruments, documents, boundary surveys, footing or foundation surveys, certificates, plans and specifications, appraisals, title and other insurance reports and agreements, and each and every other document, certificate, agreement and instrument required to be furnished by Borrower pursuant to the terms of the Loan Documents or which are reasonably requested by Lender in connection therewith;

(b) execute and deliver to Lender such documents, instruments, certificates, assignments and other writings, and do such other acts necessary or desirable, to evidence, preserve and/or protect the collateral at any time securing or intended to secure the obligations of Borrower under the Loan Documents, as Lender may reasonably require; and

(c) do and execute all and such further lawful and reasonable acts, conveyances and assurances for the better and more effective carrying out of the intents and purposes of this Agreement and the other Loan Documents, as Lender shall reasonably require from time to time.

5.1.10 Mortgage Taxes. Borrower covenants that it will pay all state, county and municipal recording and all other taxes imposed upon the execution and recordation of the Mortgages and/or the Note.

5.1.11 Financial Reporting. (a) Borrower will keep and maintain or will cause to be kept and maintained on a Fiscal Year basis, in accordance with the Uniform System of Accounts and reconciled in accordance with GAAP (or such other accounting basis reasonably acceptable to Lender, including a cash basis of accounting consistently applied), proper and accurate books, records and accounts reflecting all of the financial affairs of Borrower and all items of income and expense in connection with the operation on an individual basis of the Properties. Lender shall have the right from time to time at all times during normal business hours upon reasonable notice to examine such books, records and accounts at the office of Borrower or any other Person maintaining such books, records and accounts and to make such copies or extracts thereof as Lender shall desire. After the occurrence of an Event of Default, Borrower shall pay any costs and expenses incurred by Lender to examine Borrower's accounting records with respect to the Properties, as Lender shall determine to be necessary or appropriate in the protection of Lender's interest.

(b) Borrower will furnish to Lender annually, within ninety (90) days following the end of each Fiscal Year of Borrower, a complete copy of Borrower's annual financial statements audited by a "Big Four" accounting firm or other independent certified public accountant reasonably acceptable to Lender) in accordance with GAAP (or such other accounting basis reasonably acceptable to Lender) covering the Properties on a combined basis as well as each Individual Property for such Fiscal Year and containing statements of profit and

loss for Borrower and the Properties and a balance sheet for Borrower. For purposes hereof, as of the date hereof, Haske! & White, Peter R. Troncale and Mike Miller shall all be deemed a reasonably acceptable independent certified public accountant. Notwithstanding the foregoing, upon the occurrence and during the continuance of an Event of Default, at the request of Lender, each Individual Borrower shall have its financial statements audited by a "Big Four" accounting firm or other independent certified public accountant reasonably acceptable to Lender. Such statements shall set forth the financial condition and the results of operations for the Properties for such Fiscal Year, and shall include, but not be limited to, amounts representing annual Net Cash Flow, Net Operating Income, Gross Income from Operations and Operating Expenses. Borrower's annual financial statements shall be accompanied by (i) a comparison of the budgeted income and expenses and the actual income and expenses for the prior Fiscal Year, (ii) if requested in writing by Lender or any Rating Agency, an unqualified opinion of a "Big Four" accounting firm or other independent certified public accountant reasonably acceptable to Lender, (iii) a list of tenants, if any, occupying more than ten (10%) percent of the total floor area of the Improvements, (iv) a breakdown showing the year in which each Lease then in effect expires and the percentage of total floor area of the Improvements and the percentage of base rent with respect to which Leases shall expire in each such year, each such percentage to be expressed on both a per year and cumulative basis occupancy statistics for the Property, (v) a schedule audited by an independent certified public accountant reconciling Net Operating Income to Net Cash Flow (the "Net Cash Flow Schedule"), which shall itemize all adjustments made to Net Operating Income to arrive at Net Cash Flow deemed material by such independent certified public accountant, (vi) a trend report prepared on a monthly basis, and (vii) an Officer's Certificate certifying that each annual financial statement presents fairly the financial condition and the results of operations of Borrower and the Properties being reported upon and that such financial statements have been prepared in accordance with GAAP or such other accounting basis reasonably acceptable to Lender and as of the date thereof whether there exists an event or circumstance which constitutes a Default or Event of Default under the Loan Documents executed and delivered by, or applicable to, Borrower, and if such Default or Event of Default exists, the nature thereof, the period of time it has existed and the action then being taken to remedy the same.

(c) Borrower will furnish, or cause to be furnished, to Lender on or before twenty (20) days after the end of each calendar month the following items, accompanied by an Officer's Certificate stating that such items are true, correct, accurate, and complete and fairly present the financial condition and results of the operations of Borrower and the Properties on a combined basis as well as each Individual Property (subject to normal year-end adjustments): (i) a rent roll for the subject month; (ii) monthly and year-to-date operating statements (including Capital Expenditures) prepared for each calendar month, noting Net Operating Income, Gross Income from Operations, and Operating Expenses (not including any contributions to the Replacement Reserve Fund), and, upon Lender's request, other information necessary and sufficient to fairly represent the financial position and results of operation of the Property during such calendar month, and containing a comparison of budgeted income and expenses and the actual income and expenses together with a detailed explanation of any variances of five percent (5%) or more between budgeted and actual amounts for such periods, all in form satisfactory to Lender; (iii) a calculation reflecting the annual Debt Service Coverage Ratio for the immediately preceding twelve (12) month period as of the last day of such month; and (iv) a Net Cash Flow Schedule. In addition, such Officer's Certificate shall also state that the

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representations and warranties of Borrower set forth in Section 4.1.30 are true and correct as of the date of such certificate and that there are no trade payables outstanding for more than sixty (60) days.

(d) For the partial year period commencing on the date hereof, and for each Fiscal Year thereafter, Borrower shall submit to Lender an Annual Budget not later than sixty (60) days prior to the commencement of such period or Fiscal Year in form reasonably satisfactory to Lender. The Annual Budget shall be subject to Lender's approval (each such Annual Budget, an "Approved Annual Budget"). In the event that Lender objects to a proposed Annual Budget submitted by Borrower which requires the approval of Lender hereunder, Lender shall advise Borrower of such objections within fifteen (15) days after receipt thereof (and deliver to Borrower a reasonably detailed description of such objections) and Borrower shall promptly revise such Annual Budget and resubmit the same to Lender. Lender shall advise Borrower of any objections to such revised Annual Budget within ten (10) days after receipt thereof (and deliver to Borrower a reasonably detailed description of such objections) and Borrower shall promptly revise the same in accordance with the process described in this subsection until Lender approves the Annual Budget. Until such time that Lender approves a proposed Annual Budget which requires the approval of Lender hereunder, the most recently Approved Annual Budget shall apply; provided, that such Approved Annual Budget shall be adjusted to reflect actual increases in Taxes, Insurance Premiums and utilities expenses.

(e) In the event that Borrower must incur an extraordinary Operating Expense or Capital Expenditure not set forth in the Approved Annual Budget (each, an "Extraordinary Expense"), then Borrower shall promptly deliver to Lender a reasonably detailed explanation of such proposed Extraordinary Expense for Lender's approval.

(f) If, at the time a Disclosure Document is being prepared for a Securitization, Lender expects that Borrower alone or Borrower and one or more Affiliates of Borrower collectively, or the Property alone or the Property and Related Properties collectively, will be a Significant Obligor, Borrower shall furnish to Lender upon request (i) the selected financial data or, if applicable, Net Operating Income, required under Item 1112(b)(1) of Regulation AB, if Lender expects that the principal amount of the Loan together with any Related Loans as of the cut-off date for such Securitization may, or if the principal amount of the Loan together with any Related Loans as of the cut-off date for such Securitization and at any time during which the Loan and any Related Loans are included in a Securitization does, equal or exceed ten percent (10%) (but less than twenty percent (20%)) of the aggregate principal amount of all mortgage loans included or expected to be included, as applicable, in the Securitization, or (ii) the financial statements required under Item 1112(b)(2) of Regulation AB, if Lender expects that the principal amount of the Loan together with any Related Loans as of the cut-off date for such Securitization may, or if the principal amount of the Loan together with any Related Loans as of the cut-off date for such Securitization and at any time during which the Loan and any Related Loans are included in a Securitization does, equal or exceed twenty percent (20%) of the aggregate principal amount of all mortgage loans included or expected to be included, as applicable, in the Securitization. Such financial data or financial statements shall be furnished to Lender (A) within ten (10) Business Days after notice from Lender in connection with the preparation of Disclosure Documents for the Securitization, (B) not later than thirty (30) days after the end of each fiscal quarter of Borrower and (C) not later than seventy-five (75) days

after the end of each fiscal year of Borrower; provided, however, that Borrower shall not be obligated to furnish financial data or financial statements pursuant to clauses (B) or (C) of this sentence with respect to any period for which a filing pursuant to the Exchange Act in connection with or relating to the Securitization (an "Exchange Act Filing") is not required. If requested by Lender, Borrower shall furnish to Lender financial data and/or financial statements for any tenant of the Property if, in connection with a Securitization, Lender expects there to be, with respect to such tenant or group of Affiliated tenants, a concentration within all of the mortgage loans included or expected to be included, as applicable, in the Securitization such that such tenant or group of affiliated tenants would constitute a Significant Obligor.

(g) All financial data and financial statements provided by Borrower hereunder pursuant to Section 5.1.11(f) hereof shall be prepared in accordance with GAAP or a cash basis of accounting consistently applied, and shall meet the requirements of Regulation AB and other applicable legal requirements. All financial statements referred to in Section 5.1.11(f) above shall be audited by independent accountants of Borrower acceptable to Lender in accordance with Regulation AB and all other applicable legal requirements, shall be accompanied by the manually executed report of the independent accountants thereon, which report shall meet the requirements of Regulation AB and all other applicable legal requirements, and shall be further accompanied by a manually executed written consent of the independent accountants, in form and substance acceptable to Lender, to the inclusion of such financial statements in any Disclosure Document and any Exchange Act Filing and to the use of the name of such independent accountants and the reference to such independent accountants as "experts" in any Disclosure Document and Exchange Act Filing, all of which shall be provided at the same time as the related financial statements are required to be provided. All financial data and financial statements (audited or unaudited) provided by Borrower under Section 5.1.11(f) shall be accompanied by an Officer's Certificate, which certification shall state that such financial statements meet the requirements set forth in the first sentence of this Section 5.1.11(g).

(h) If requested by Lender, Borrower shall provide Lender, promptly upon request, with any other or additional financial statements, or financial, statistical or operating information, as Lender shall determine to be required pursuant to Regulation AB or any amendment, modification or replacement thereto or other legal requirements in connection with any Disclosure Document or any Exchange Act Filing or as shall otherwise be reasonably requested by the Lender.

(i) In the event Lender determines, in connection with a Securitization, that the financial data and financial statements required in order to comply with Regulation AB or any amendment, modification or replacement thereto or other legal requirements are other than as provided herein, then notwithstanding the provisions of Section 5.1.11(g) hereof, Lender may request, and Borrower shall promptly provide, such combination of Acquired Property Statement and/or Standard Statements or such other financial data and financial statements as Lender determines to be necessary or appropriate for such compliance.

(j) Any reports, statements or other information required to be delivered under this Agreement shall be delivered (i) in paper form, (ii) on a diskette, and (iii) if requested by Lender and within the capabilities of Borrower's data systems without change or

modification thereto, in electronic form and prepared using a Microsoft Word for Windows or WordPerfect for Windows files (which files may be prepared using a spreadsheet program and saved as word processing files). Borrower agrees that Lender may disclose information regarding the Properties and Borrower that is provided to Lender pursuant to this Section in connection with the Securitization to such parties requesting such information in connection with such Securitization.

5.1.12 Business and Operations. Borrower will continue to engage in the businesses presently conducted by it as and to the extent the same are necessary for the ownership, maintenance, management and operation of the Properties. Borrower will qualify to do business and will remain in good standing under the laws of each jurisdiction as and to the extent the same are required for the ownership, maintenance, management and operation of the Properties.

5.1.13 Title to the Properties. Borrower will warrant and defend (a) the title to each Individual Property and every part thereof, subject only to Liens permitted hereunder (including Permitted Encumbrances) and (b) the validity and priority of the Liens of the Mortgages and the Assignments of Leases, subject only to Liens permitted hereunder (including Permitted Encumbrances), in each case against the claims of all Persons whomsoever. Borrower shall reimburse Lender for any losses, costs, damages or expenses (including reasonable attorneys' fees and court costs) incurred by Lender if an interest in any Individual Property, other than as permitted hereunder, is claimed by another Person.

5.1.14 Costs of Enforcement. In the event (a) that any Mortgage encumbering any Individual Property is foreclosed in whole or in part or that any such Mortgage is put into the hands of an attorney for collection, suit, action or foreclosure, (b) of the foreclosure of any mortgage prior to or subsequent to any Mortgage encumbering any Individual Property in which proceeding Lender is made a party, or (c) of the bankruptcy, insolvency, rehabilitation or other similar proceeding in respect of Borrower or any of its constituent Persons or an assignment by Borrower or any of its constituent Persons for the benefit of its creditors, Borrower, its successors or assigns, shall be chargeable with and agrees to pay all costs of collection and defense, including attorneys' fees and costs, incurred by Lender or Borrower in connection therewith and in connection with any appellate proceeding or post-judgment action involved therein, together with all required service or use taxes.

5.1.15 Estoppel Statement. (a) After request by Lender, Borrower shall within ten (10) days furnish Lender with a statement, duly acknowledged and certified, setting forth (i) the original principal amount of the Loan, (ii) the unpaid principal amount of the Loan, (iii) the Applicable Interest Rate of the Loan, (iv) the date installments of interest and/or principal were last paid, (v) any offsets or defenses to the payment of the Debt, if any, and (vi) that the Note, this Agreement, the Mortgages and the other Loan Documents are valid, legal and binding obligations and have not been modified or if modified, giving particulars of such modification.

(b) Borrower shall deliver to Lender upon request, tenant estoppel certificates from each commercial tenant leasing space at the Properties in form and substance

reasonably satisfactory to Lender provided that Borrower shall not be required to deliver such certificates more frequently than two (2) times in any calendar year.

5.1.16 Loan Proceeds. Borrower shall use the proceeds of the Loan received by it on the Closing Date only for the purposes set forth in Section 2.1.4.

5.1.17 Performance by Borrower. Borrower shall in a timely manner observe, perform, satisfy and fulfill each and every condition, covenant, term and provision of each Loan Document executed and delivered by, or applicable to, Borrower, and shall not enter into or otherwise suffer or permit any amendment, waiver, supplement, termination or other modification of any Loan Document executed and delivered by, or applicable to, Borrower without the prior consent of Lender.

5.1.18 Confirmation of Representations. Borrower shall deliver, in connection with any Securitization, (a) one or more Officer's Certificates certifying as to the accuracy of all representations made by Borrower in the Loan Documents as of the date of the closing of such Securitization in all relevant jurisdictions, and (b) certificates of the relevant Governmental Authorities in all relevant jurisdictions indicating the good standing and qualification of Borrower and Principal as of the date of the Securitization.

5.1.19 No Joint Assessment. Borrower shall not suffer, permit or initiate the joint assessment of any Individual Property (a) with any other real property constituting a tax lot separate from such Individual Property, and (b) which constitutes real property with any portion of such Individual Property which may be deemed to constitute personal property, or any other procedure whereby the lien of any taxes which may be levied against such personal property shall be assessed or levied or charged to such real property portion of the Individual Property.

5.1.20 Leasing Matters. Any Leases with respect to an Individual Property executed after the date hereof, for more than 2,500 square feet shall be approved by Lender, which approval shall not be unreasonably withheld. Any commercial Leases with respect to the Property executed after the date hereof shall be approved by Lender, which approval shall not be unreasonably withheld. Upon request, Borrower shall furnish Lender with executed copies of all Leases. All renewals of Leases and all proposed Leases shall provide for rental rates comparable to existing local market rates. All proposed Leases shall be on commercially reasonable terms and shall not contain any terms which would materially affect Lender's rights under the Loan Documents. All Leases executed after the date hereof shall provide that they are subordinate to the Mortgage encumbering the applicable Individual Property and that the lessee agrees to attorn to Lender or any purchaser at a sale by foreclosure or power of sale. Borrower shall (i) observe and perform the obligations imposed upon the lessor under the Leases in a commercially reasonable manner; (ii) enforce and may amend or terminate the terms, covenants and conditions contained in the Leases upon the part of the lessee thereunder to be observed or performed in a commercially reasonable manner and in a manner not to impair the value of the Individual Property involved except that no termination by Borrower or acceptance of surrender by a tenant of any Leases shall be permitted unless by reason of a tenant default and then only in a commercially reasonable manner to preserve and protect the Individual Property; provided, however, that no such termination or surrender of any (a) Lease

covering more than 2,500 square feet or (b) commercial Lease, will be permitted without the consent of Lender; (iii) not collect any of the rents more than one (1) month in advance (other than security deposits); (iv) not execute any other assignment of lessor's interest in the Leases or the Rents (except as contemplated by the Loan Documents); (v) not alter, modify or change the terms of the Leases in a manner inconsistent with the provisions of the Loan Documents; and (vi) execute and deliver at the request of Lender all such further assurances, confirmations and assignments in connection with the Leases as Lender shall from time to time reasonably require. Notwithstanding anything to the contrary contained herein, Borrower shall not enter into a lease of all or substantially all of any Individual Property without Lender's prior consent.

5.1.21 Alterations. Borrower shall obtain Lender's prior consent to any alterations to any Improvements, which consent shall not be unreasonably withheld. Notwithstanding the foregoing, Lender's consent shall not be required in connection with any alterations that will not have a material adverse effect on Borrower's financial condition, the value of the applicable Individual Property or the Net Operating Income, provided that such alterations with respect to the applicable Individual Property (a) are made in connection with tenant improvement work performed pursuant to the terms of any Lease executed on or before the date hereof, (b) do not adversely affect any structural component of any Improvements, any utility or HVAC system contained in any Improvements or the exterior of any building constituting a part of any Improvements of the applicable Individual Property and the aggregate cost for each such repair thereof does not exceed Five Hundred Thousand and 00/100 Dollars (\$500,000.00) or (c) are performed in connection with the Restoration of an Individual Property after the occurrence of a Casualty in accordance with the terms and provisions of this Agreement. If the total unpaid amounts due and payable with respect to alterations to the Improvements at the Property (other than such amounts to be paid or reimbursed by tenants under the Leases) shall at any time exceed One Hundred Fifty Thousand and 00/100 Dollars (\$150,000.00) (the "Threshold Amount"), Borrower shall promptly deliver to Lender as security for the payment of such amounts and as additional security for Borrower's obligations under the Loan Documents any of the following: (A) cash, (B) U.S. Obligations, (C) other securities having a rating acceptable to Lender and that the applicable Rating Agencies have confirmed in writing will not, in and of itself, result in a downgrade, withdrawal or qualification of the initial, or, if higher, then current ratings assigned to any Securities or any class thereof in connection with any Securitization, (D) a Letter of Credit or (E) a completion and performance bond issued by an Approved Bank. Such security shall be in an amount equal to the excess of the total unpaid amounts with respect to alterations to the Improvements on the applicable Individual Property (other than such amounts to be paid or reimbursed by tenants under the Leases) over the Threshold Amount and Lender may apply such security from time to time at the option of Lender to pay for such alterations.

5.1.22 Operation of Property. (a) Borrower shall cause the Properties to be operated, in all material respects, in accordance with the Management Agreement (or Replacement Management Agreement) and Asset Management Agreement, as applicable. In the event that the Management Agreement or Asset Management Agreement expires or is terminated (without limiting any obligation of Borrower to obtain Lender's consent to any termination or modification of the Management Agreement or Asset Management Agreement in accordance with the terms and provisions of this Agreement), Borrower shall promptly enter

into a Replacement Management Agreement and/or Asset Management Agreement, as applicable, with Manager, Asset Manager or another Qualified Manager, as applicable.

(b) Borrower shall: (i) promptly perform and/or observe, in all material respects, all of the covenants and agreements required to be performed and observed by it under the Management Agreement and Asset Management Agreement and do all things necessary to preserve and to keep unimpaired its material rights thereunder; (ii) promptly notify Lender of any material default under the Management Agreement and the Asset Management Agreement of which it is aware; (iii) promptly deliver to Lender a copy of each financial statement, business plan, capital expenditures plan, notice, report and estimate received by it under the Management Agreement or Asset Management Agreement; and (iv) enforce the performance and observance of all of the covenants and agreements required to be performed and/or observed by Manager or Asset Manager under the Management Agreement or Asset Management Agreement, as applicable, in a commercially reasonable manner.

5.1.23 Intentionally Omitted.

Section 5.2. Negative Covenants. From the date hereof until payment and performance in full of all obligations of Borrower under the Loan Documents or the earlier release of the Liens of all Mortgages in accordance with the terms of this Agreement and the other Loan Documents, Borrower covenants and agrees with Lender that it will not do, directly or indirectly, any of the following:

5.2.1 Operation of Property. (a) Borrower shall not, without Lender's prior consent (which consent shall not be unreasonably withheld): (i) surrender, terminate or cancel the Management Agreement or Asset Management Agreement; provided, that Borrower may, without Lender's consent, replace the Manager or Asset Manager so long as the replacement manager is a Qualified Manager pursuant to a Replacement Management Agreement (ii) reduce or consent to the reduction of the term of the Management Agreement or Asset Management Agreement; (iii) increase or consent to the increase of the amount of any charges under the Management Agreement or Asset Management Agreement; or (iv) otherwise modify, change, supplement, alter or amend, or waive or release any of its rights and remedies under, the Management Agreement or Asset Management Agreement in any material respect.

(b) Following the occurrence and during the continuance of an Event of Default, Borrower shall not exercise any rights, make any decisions, grant any approvals or otherwise take any action under the Management Agreement or Asset Management Agreement without the prior consent of Lender, which consent may be withheld in Lender's sole, but good faith, discretion.

5.2.2 Liens. Borrower shall not create, incur, assume or suffer to exist any Lien on any portion of any Individual Property or permit any such action to be taken, except:

- (i) Permitted Encumbrances;
- (ii) Liens created by or permitted pursuant to the Loan Documents;

and

(iii) Liens for Taxes or Other Charges not yet due.

5.2.3 Dissolution. No Individual Borrower shall (a) engage in any dissolution, liquidation or consolidation or merger with or into any other business entity, (b) engage in any business activity not related to the ownership and operation of its Individual Property, (c) transfer, lease or sell, in one transaction or any combination of transactions, the assets or all or substantially all of its properties or assets, except to the extent permitted by the Loan Documents, (d) modify, amend, waive or terminate its organizational documents or its qualification and good standing in any jurisdiction or (e) cause the Principal or Mezzanine Borrowers to (i) dissolve, wind up or liquidate or take any action, or omit to take an action, as a result of which the Principal or Mezzanine Borrowers would be dissolved, wound up or liquidated in whole or in part, or (ii) amend, modify, waive or terminate the certificate of incorporation or bylaws of the Principal or Mezzanine Borrowers, in each case, without obtaining the prior consent of Lender.

5.2.4 Change in Business. Borrower shall not enter into any line of business other than the ownership and operation of the Properties, or make any material change in the scope or nature of its business objectives, purposes or operations, or undertake or participate in activities other than the continuance of its present business.

5.2.5 Debt Cancellation. Borrower shall not cancel or otherwise forgive or release any claim or debt (other than termination of Leases in accordance herewith) owed to Borrower by any Person, except for adequate consideration and in the ordinary course of Borrower's business.

5.2.6 Zoning. Borrower shall not initiate or consent to any zoning reclassification of any portion of any Individual Property or seek any variance under any existing zoning ordinance or use or permit the use of any portion of any Individual Property in any manner that could result in such use becoming a non-conforming use under any zoning ordinance or any other applicable land use law, rule or regulation, without the prior consent of Lender.

5.2.7 No Joint Assessment. Borrower shall not suffer, permit or initiate the joint assessment of the Property (a) with any other real property constituting a tax lot separate from the Property, and (b) which constitutes real property with any portion of the Property which may be deemed to constitute personal property, or any other procedure whereby the lien of any taxes which may be levied against such personal property shall be assessed or levied or charged to such real property portion of the Property.

5.2.8 Principal Place of Business and Organization. Borrower shall not change its principal place of business set forth in the introductory paragraph of this Agreement without first giving Lender thirty (30) days prior notice. Borrower shall not change the place of its organization as set forth in Section 4.1.28 without the consent of Lender, which consent shall not be unreasonably withheld. Upon Lender's request, Borrower shall execute and deliver additional financing statements, security agreements and other instruments which may be necessary to effectively evidence or perfect Lender's security interest in the Property as a result of such change of principal place of business or place of organization. Borrower's principal

place of business and chief executive office, and the place where Borrower keeps its books and records, including recorded data of any kind or nature, regardless of the medium or recording, including software, writings, plans, specifications and schematics, has been for the preceding four months (or, if less, the entire period of the existence of Borrower) and will continue to be the address of Borrower set forth at the introductory paragraph of this Agreement (unless Borrower notifies Lender in writing at least thirty (30) days prior to the date of such change).

5.2.9 ERISA. (a) Borrower shall not engage in any transaction which would cause any obligation, or action taken or to be taken, hereunder (or the exercise by Lender of any of its rights under the Note, this Agreement or the other Loan Documents) to be a non-exempt (under a statutory or administrative class exemption) prohibited transaction under ERISA.

(b) Borrower further covenants and agrees to deliver to Lender such certifications or other evidence from time to time throughout the term of the Loan, as requested by Lender in its sole discretion, that (i) no Individual Borrower is an "employee benefit plan" as defined in Section 3(3) of ERISA, which is subject to Title I of ERISA, or a "governmental plan" within the meaning of Section 3(32) of ERISA; (ii) no Individual Borrower is subject to any state statute regulating investments of, or fiduciary obligations with respect to, governmental plans; and (iii) one or more of the following circumstances is true:

(A) Equity interests in Individual Borrower are publicly offered securities, within the meaning of 29 C.F.R. §2510.3-101(b)(2);

(B) Less than twenty-five percent (25%) of each outstanding class of equity interests in Individual Borrower is held by "benefit plan investors" within the meaning of 29 C.F.R. §2510.3-101(f)(2); or

(C) Individual Borrower qualifies as an "operating company" or a "real estate operating company" within the meaning of 29 C.F.R. §2510.3-101(c) or (e).

5.2.10 Transfers. (a) Borrower acknowledges that Lender has examined and relied on the experience of Borrower and its stockholders, general partners, members, principals and (if Borrower is a trust) beneficial owners in owning and operating properties such as the Properties in agreeing to make the Loan, and will continue to rely on Borrower's ownership of the Properties as a means of maintaining the value of the Properties as security for repayment of the Debt and the performance of the obligations contained in the Loan Documents. Borrower acknowledges that Lender has a valid interest in maintaining the value of the Properties so as to ensure that, should Borrower default in the repayment of the Debt or the performance of the obligations contained in the Loan Documents, Lender can recover the Debt by a sale of the Properties.

(b) Without the prior consent of Lender and except to the extent otherwise set forth in this Section 5.2.10, Borrower shall not, and shall not permit any Restricted Party to, (i) sell, convey, mortgage, grant, bargain, encumber, pledge, assign, grant options with respect to, or otherwise transfer or dispose of (directly or indirectly, voluntarily or involuntarily,

direct or indirect interest in such Restricted Party as of the Closing Date, Borrower shall, no less than thirty (30) days prior to the effective date of any such Transfer, deliver to Lender an Additional Insolvency Opinion acceptable to Lender and the Rating Agencies, and (D) except as expressly set forth in this Section, no such sales or transfers are permitted with respect to any direct equity interest in any Individual Borrower. In addition, notwithstanding anything to the contrary contained herein, at all times during the term of the Loan, Richard J. Nathan must continue to Control each Individual Borrower and any Affiliated Manager, if any, or Asset Manager and own, directly or indirectly, at least (1) fifty-one percent (51%) of the beneficial interests in each Individual Borrower and (2) fifty-one percent (51%) of Affiliated Manager and Asset Manager.

(e) No consent to any assumption of the Loan shall occur on or before the first anniversary of the first Payment Date. Thereafter, Lender reserves the right to condition the consent required hereunder upon (a) a modification of the terms hereof, the Note, the Mortgages or the other Loan Documents; provided any such modification shall not change the economic terms set forth in any of the Loan Documents; (b) an assumption of this Agreement, the Note, the Mortgages and the other Loan Documents as so modified by the proposed transferee, subject to the provisions of Section 9.4 hereof; (c) payment of all of fees and expenses incurred in connection with such Transfer including, without limitation, the cost of any third party reports, legal fees and expenses, Rating Agency fees and expenses or required legal opinions; (d) the payment of a non-refundable \$5,000 application fee and an assumption fee equal to one percent (1%) of the outstanding principal balance of the Loan; (e) the delivery of a nonconsolidation opinion reflecting the proposed transfer satisfactory in form and substance to Lender; (f) the proposed transferee's continued compliance with the representations and covenants set forth in Section 4.1.30 and Section 5.2.9 hereof; (g) the delivery of evidence satisfactory to Lender that the single purpose nature and bankruptcy remoteness of Borrower, its shareholders, partners or members, as the case may be, following such transfers are in accordance with the then current standards of Lender and the Rating Agencies; (h) prior to any release of the Guarantor, a substitute guarantor reasonably acceptable to Lender shall have assumed the Guaranty executed by Guarantor or executed a replacement guaranty reasonably satisfactory to Lender; (i) if required by Lender, confirmation in writing from the Rating Agencies to the effect that such transfer will not result in a re-qualification, reduction or withdrawal of the then current rating assigned to the Securities or any class thereof in any applicable Securitization; or (j) such other conditions as Lender shall determine in its reasonable discretion to be in the interest of Lender, including, without limitation, the creditworthiness, reputation and qualifications of the transferee with respect to the Loan and the Property. Lender shall not be required to demonstrate any actual impairment of its security or any increased risk of default hereunder in order to declare the Debt immediately due and payable upon a Transfer without Lender's consent. This provision shall apply to every Transfer regardless of whether voluntary or not, or whether or not Lender has consented to any previous Transfer.

5.2.11 No Affiliation with Charter Capital of Charles Hill. Each Individual Borrower and their respective Affiliates shall not permit Charter Capital and/or Charles Hill to become an Affiliate of any Individual Borrower and/or any of their respective Affiliates.

VI. INSURANCE; CASUALTY; CONDEMNATION

Section 6.1. Insurance. (a) Borrower shall obtain and maintain, or cause to be maintained, insurance for each Borrower and each Individual Property providing at least the following coverages:

(i) comprehensive all risk insurance on the Improvements and the Personal Property, including contingent liability from Operation of Building Laws, Demolition Costs and Increased Cost of Construction Endorsements, in each case (A) in an amount equal to one hundred percent (100%) of the "Full Replacement Cost," which for purposes of this Agreement shall mean actual replacement value (exclusive of costs of excavations, foundations, underground utilities and footings) with a waiver of depreciation, but the amount shall in no event be less than the outstanding principal balance of the Loan; (B) containing an agreed amount endorsement with respect to the Improvements and Personal Property waiving all co-insurance provisions; (C) providing for no deductible in excess of Twenty-Five Thousand and No/100 Dollars (\$25,000.00) for all such insurance coverage; and (D) containing an "Ordinance or Law Coverage" or "Enforcement" endorsement if any of the Improvements or the use of the Individual Property shall at any time constitute legal non-conforming structures or uses. In addition, Borrower shall obtain: (x) if any portion of the Improvements is currently or at any time in the future located in a federally designated "special flood hazard area", flood hazard insurance in an amount equal to the lesser of (1) the outstanding principal balance of the Note or (2) the maximum amount of such insurance available under the National Flood Insurance Act of 1968, the Flood Disaster Protection Act of 1973 or the National Flood Insurance Reform Act of 1994, as each may be amended or such greater amount as Lender shall require; (y) earthquake insurance in amounts and in form and substance satisfactory to Lender in the event the Individual Property is located in an area with a high degree of seismic activity and (z) coastal windstorm insurance in amounts and in form and substance satisfactory to Lender in the event the Individual Property is located in any coastal region, provided that the insurance pursuant to clauses (x), (y) and (z) hereof shall be on terms consistent with the comprehensive all risk insurance policy required under this subsection (i);

(ii) commercial general liability insurance against claims for personal injury, bodily injury, death or property damage occurring upon, in or about the Individual Property, such insurance (A) to be on the so-called "occurrence" form with a combined limit of not less than Two Million and No/100 Dollars (\$2,000,000.00) in the aggregate and One Million and No/100 Dollars (\$1,000,000.00) per occurrence (and, if on a blanket policy, containing an "Aggregate Per Location" endorsement); (B) to continue at not less than the aforesaid limit until required to be changed by Lender in writing by reason of changed economic conditions making such protection inadequate; and (C) to cover at least the following hazards: (1) premises and operations; (2) products and completed operations on an "if any" basis; (3) independent contractors; (4) blanket contractual liability for all legal contracts; and (5) contractual liability covering the indemnities contained in Article 8 of the Mortgages to the extent the same is available;

(iii) business income insurance (A) with loss payable to Lender; (B) covering all risks required to be covered by the insurance provided for in Section 6.1(a)(i) above; (C) containing an extended period of indemnity endorsement which

provides that after the physical loss to the Improvements and Personal Property has been repaired, the continued loss of income will be insured until such income either returns to the same level it was at prior to the loss, or the expiration of eighteen (18) months from the date that the applicable Individual Property is repaired or replaced and operations are resumed, whichever first occurs, and notwithstanding that the policy may expire prior to the end of such period, provided, however, that as of the date hereof, Lender shall not require Borrower to obtain the insurance required under this clause (C) for a period in excess of twelve (12) months for the Individual Properties located in the Commonwealth of Virginia, due to the fact that as of the date hereof, Borrower is unable to, with respect to the Individual Properties located in the Commonwealth of Virginia, obtain the insurance required under this clause (C) for a period in excess of twelve (12) months, provided, further, that if at any time, after the date hereof, such insurance described in this clause (C) becomes available for a period in excess of twelve (12) months, then Borrower shall immediately obtain and maintain such increases so that the amount of such coverage fully complies with the strict terms and provisions of this clause (C); and (D) in an amount equal to one hundred percent (100%) of the projected gross income from each Individual Property for a period of eighteen (18) months from the date of such Casualty (assuming such Casualty had not occurred) and notwithstanding that the policy may expire at the end of such period provided, however, that as of the date hereof, Lender shall not require Borrower to obtain the insurance required under this clause (D) for a period in excess of twelve (12) months for the Individual Properties located in the Commonwealth of Virginia, due to the fact that as of the date hereof, Borrower is unable to, with respect to the Individual Properties located in the Commonwealth of Virginia, obtain the insurance required under this clause (D) for a period in excess of twelve (12) months, provided, further, that if at any time, after the date hereof, such insurance described in this clause (D) becomes available for a period in excess of twelve (12) months, then Borrower shall immediately obtain and maintain such increases so that the amount of such coverage fully complies with the strict terms and provisions of this clause (D). The amount of such business income insurance shall be determined prior to the date hereof and at least once each year thereafter based on Borrower's reasonable estimate of the gross income from each Individual Property for the succeeding twelve (12) month period. Notwithstanding anything to the contrary in Section 2.6 hereof, all proceeds payable to Lender pursuant to this subsection shall be held by Lender and shall be applied at Lender's sole discretion to (I) the obligations secured by the Loan Documents from time to time due and payable hereunder and under the Note or (II) Operating Expenses approved by Lender in its sole discretion; provided, however, that nothing herein contained shall be deemed to relieve Borrower of its obligations to pay the obligations secured by the Loan Documents on the respective dates of payment provided for in this Agreement and the other Loan Documents except to the extent such amounts are actually paid out of the proceeds of such business income insurance;

(iv) at all times during which structural construction, repairs or alterations are being made with respect to the Improvements, and only if the Individual Property coverage form does not otherwise apply, (A) owner's contingent or protective liability insurance covering claims not covered by or under the terms or provisions of the above mentioned commercial general liability insurance policy; and (B) the insurance provided for in subsection (i) above written in a so-called builder's risk completed value

form (1) on a non-reporting basis, (2) against all risks insured against pursuant to subsection (i) above, (3) including permission to occupy the Individual Property, and (4) with an agreed amount endorsement waiving co-insurance provisions;

(v) if an Individual Property includes commercial property, worker's compensation insurance with respect to any employees of Borrower, as required by any Governmental Authority or Legal Requirement;

(vi) comprehensive boiler and machinery insurance, if applicable, in amounts as shall be reasonably required by Lender on terms consistent with the commercial property insurance policy required under subsection (i) above;

(vii) umbrella liability insurance in an amount not less than Fifty Million and No/100 Dollars (\$50,000,000.00) per occurrence on terms consistent with the commercial general liability insurance policy required under subsection (ii) above;

(viii) motor vehicle liability coverage for all owned and non-owned vehicles, including rented and leased vehicles containing minimum limits per occurrence, including umbrella coverage, of One Million and No/100 Dollars (\$1,000,000.00);

(ix) if any Individual Property is or becomes a legal "non-conforming" use, ordinance or law coverage and insurance coverage to compensate for the cost of demolition or rebuilding of the undamaged portion of the applicable Individual Property along with any reduced value and the increased cost of construction in amounts as requested by Lender;

(x) the commercial property and business income insurance required under Sections 6.1(a)(i) and (iii) above shall cover perils of terrorism and acts of terrorism and Borrower shall maintain commercial property and business income insurance for loss resulting from perils and acts of terrorism on terms (including amounts) consistent with those required under Sections 6.1(a) above at all times during the term of the Loan; and

(xi) upon sixty (60) days' notice, such other reasonable insurance and in such reasonable amounts as Lender from time to time may reasonably request against such other insurable hazards which at the time are commonly insured against for property similar to the Individual Property located in or around the region in which the Individual Property is located.

(b) All insurance provided for in Section 6.1(a) shall be obtained under valid and enforceable policies (collectively, the "Policies" or in the singular, the "Policy"), and shall be subject to the approval of Lender as to insurance companies, amounts, deductibles, loss payees and insureds. The Policies shall be issued by financially sound and responsible insurance companies authorized to do business in the State and having a claims paying ability rating of "A" or better (and the equivalent thereof) by S&P. The Policies described in Section 6.1(a) (other than those strictly limited to liability protection) shall designate Lender as loss payee. Not less than ten (10) days prior to the expiration dates of the Policies theretofore furnished to Lender, certificates of insurance evidencing the Policies accompanied by evidence

satisfactory to Lender of payment of the premiums due thereunder (the "Insurance Premiums"), shall be delivered by Borrower to Lender.

(c) Any blanket insurance Policy shall specifically allocate to the Individual Property the amount of coverage from time to time required hereunder and shall otherwise provide the same protection as would a separate Policy insuring only the Properties in compliance with the provisions of Section 6.1(a).

(d) All Policies provided for or contemplated by Section 6.1(a), except for the Policy referenced in Section 6.1(a)(v), shall name Borrower as the insured and Lender as the additional insured, as its interests may appear, and in the case of property damage, boiler and machinery, flood and earthquake insurance, shall contain a so-called New York standard non-contributing mortgagee clause in favor of Lender providing that the loss thereunder shall be payable to Lender.

(e) All Policies provided for in Section 6.1 shall contain clauses or endorsements to the effect that:

(i) no act or negligence of Borrower, or anyone acting for any Individual Borrower, or of any tenant or other occupant, or failure to comply with the provisions of any Policy, which might otherwise result in a forfeiture of the insurance or any part thereof, shall in any way affect the validity or enforceability of the insurance insofar as Lender is concerned;

(ii) the Policies shall not be materially changed (other than to increase the coverage provided thereby) or canceled without at least thirty (30) days' notice to Lender and any other party named therein as an additional insured;

(iii) the issuers thereof shall give notice to Lender if the Policies have not been renewed fifteen (15) days prior to its expiration; and

(iv) Lender shall not be liable for any Insurance Premiums thereon or subject to any assessments thereunder.

(f) If at any time Lender is not in receipt of written evidence that all Policies are in full force and effect, Lender shall have the right, without notice to Borrower, to take such action as Lender deems necessary to protect its interest in the Properties, including, without limitation, the obtaining of such insurance coverage as Lender in its sole discretion deems appropriate. All premiums incurred by Lender in connection with such action or in obtaining such insurance and keeping it in effect shall be paid by Borrower to Lender upon demand and, until paid, shall be secured by the Mortgage and shall bear interest at the Default Rate.

Section 6.2. Casualty. If the Individual Property shall be damaged or destroyed, in whole or in part, by fire or other casualty (a "Casualty"), Borrower shall give prompt notice of such damage to Lender and shall promptly commence and diligently prosecute the completion of the Restoration so that the Individual Property resembles as nearly as possible to the condition the Property was in immediately prior to such Casualty, with such alterations as

may be reasonably approved by Lender and otherwise in accordance with Section 6.4. Borrower shall pay all costs of such Restoration whether or not such costs are covered by insurance. Lender may, but shall not be obligated to make proof of loss if not made promptly by Borrower. In addition, Lender may participate in any settlement discussions with any insurance companies (and shall approve any final settlement) with respect to any Casualty in which the Net Proceeds or the costs of completing the Restoration are equal to or greater than Three Hundred Fifty Thousand and No/100 Dollars (\$350,000.00) and Borrower shall deliver to Lender all instruments required by Lender to permit such participation.

Section 6.3. Condemnation. Borrower shall promptly give Lender notice of the actual or threatened commencement of any proceeding for the Condemnation of any Individual Property and shall deliver to Lender copies of any and all papers served in connection with such proceedings. Lender may participate in any such proceedings, and Borrower shall from time to time deliver to Lender all instruments requested by it to permit such participation. Borrower shall, at its expense, diligently prosecute any such proceedings, and shall consult with Lender, its attorneys and experts, and cooperate with them in the carrying on or defense of any such proceedings. Notwithstanding any taking by any public or quasi-public authority through Condemnation or otherwise (including, but not limited to, any transfer made in lieu of or in anticipation of the exercise of such taking), Borrower shall continue to pay the Debt at the time and in the manner provided for its payment in the Note and in this Agreement and the Debt shall not be reduced until any Award shall have been actually received and applied by Lender, after the deduction of expenses of collection, to the reduction or discharge of the Debt. Lender shall not be limited to the interest paid on the Award by the condemning authority but shall be entitled to receive out of the Award interest at the rate or rates provided herein or in the Note. If any Individual Property or any portion thereof is taken by a condemning authority, Borrower shall promptly commence and diligently prosecute the Restoration of the applicable Individual Property and otherwise comply with the provisions of Section 6.4. If any Individual Property is sold, through foreclosure or otherwise, prior to the receipt by Lender of the Award, Lender shall have the right, whether or not a deficiency judgment on the Note shall have been sought, recovered or denied, to receive the Award, or a portion thereof sufficient to pay the Debt.

Section 6.4. Restoration. The following provisions shall apply in connection with the Restoration of any Individual Property:

(a) If the Net Proceeds shall be less than Three Hundred Fifty Thousand and No/100 Dollars (\$350,000.00) and the costs of completing the Restoration shall be less than Three Hundred Fifty Thousand and No/100 Dollars (\$350,000.00), the Net Proceeds will be disbursed by Lender to Borrower upon receipt, provided that all of the conditions set forth in Section 6.4(b)(i) are met and Borrower delivers to Lender a written undertaking to expeditiously commence and to satisfactorily complete with due diligence the Restoration in accordance with the terms of this Agreement.

(b) If the Net Proceeds are equal to or greater than Three Hundred Fifty Thousand and No/100 Dollars (\$350,000.00) or the costs of completing the Restoration is equal to or greater than Three Hundred Fifty Thousand and No/100 Dollars (\$350,000.00), the Net Proceeds will be held by Lender and Lender shall make the Net Proceeds available for the Restoration in accordance with the provisions of this Section 6.4. The term "Net Proceeds" for

purposes of this Section 6.4 shall mean: (i) the net amount of all insurance proceeds received by Lender pursuant to Section 6.1 (a)(i), (iv), (vi), (ix) and (x) as a result of such damage or destruction, after deduction of its reasonable costs and expenses (including, but not limited to, reasonable counsel fees), if any, in collecting same ("Insurance Proceeds"), or (ii) the net amount of the Award, after deduction of its reasonable costs and expenses (including, but not limited to, reasonable counsel fees), if any, in collecting same ("Condemnation Proceeds"), whichever the case may be.

(i) The Net Proceeds shall be made available to Borrower for Restoration upon the approval of Lender in its reasonable discretion that the following conditions are met:

(A) no Event of Default shall have occurred and be continuing;

(B) (1) in the event the Net Proceeds are Insurance Proceeds, less than thirty percent (30%) of the total floor area of the Improvements on each Individual Property has been damaged, destroyed or rendered unusable as a result of such Casualty or (2) in the event the Net Proceeds are Condemnation Proceeds, less than twenty percent (20%) of the land constituting the Property is taken, and such land is located along the perimeter or periphery of the Property, and no portion of the Improvements is located on such land;

(C) Leases demising in the aggregate a percentage amount equal to or greater than eighty percent (80%) of the total rentable space in each Individual Property which has been demised under executed and delivered Leases in effect as of the date of the occurrence of such Casualty or Condemnation, whichever the case may be, shall remain in full force and effect during and after the completion of the Restoration, notwithstanding the occurrence of any such Casualty or Condemnation, whichever the case may be, and will make all necessary repairs and restorations thereto at their sole cost and expense;

(D) Borrower shall commence the Restoration as soon as reasonably practicable (but in no event later than sixty (60) days after such Casualty or Condemnation, whichever the case may be, occurs) and shall diligently pursue the same to satisfactory completion;

(E) Lender shall be reasonably satisfied that any operating deficits, including all scheduled payments of principal and interest under the Note, which will be incurred with respect to the Individual Property as a result of the occurrence of any such Casualty or Condemnation, whichever the case may be, will be covered out of (1) the Net Proceeds, (2) the insurance coverage referred to in Section 6.1(a)(iii), if applicable, or (3) by other funds of Borrower;

(F) Lender shall be satisfied that the Restoration will be completed on or before the earliest to occur of (1) three (3) months prior to the Maturity Date, (2) the earliest date required for such completion under the terms of any Leases, (3) such time as may be required under applicable Legal Requirements or (4) the expiration of the insurance coverage referred to in Section 6.1(a)(iii), as extended;

(G) the Individual Property and the use thereof after the Restoration will be in compliance with and permitted under all applicable Legal Requirements;

(H) the Restoration shall be done and completed by Borrower in an expeditious and diligent fashion and in compliance with all applicable Legal Requirements;

(I) such Casualty or Condemnation, as applicable, does not result in the loss of access to the Individual Property or the related Improvements;

(J) the Debt Service Coverage Ratio for the affected Individual Property, after giving effect to the Restoration, shall be equal to or greater than 1.20 to 1.0;

(K) the Loan to Value Ratio (using the Release Amount) for the affected Individual Property, after giving effect to the Restoration, shall not be greater than the Loan to Value Ratio immediately preceding the Closing Date;

(L) Borrower shall deliver, or cause to be delivered, to Lender a signed detailed budget approved in writing by Borrower's architect or engineer stating the entire cost of completing the Restoration, which budget shall be acceptable to Lender, and

(M) the Net Proceeds together with any cash or cash equivalent deposited by Borrower with Lender are sufficient in Lender's discretion to cover the cost of the Restoration.

(ii) Except as set forth in Section 6.4(a) hereof, the Net Proceeds shall be held by Lender in an interest-bearing account and, until disbursed in accordance with the provisions of this Section 6.4(b), shall constitute additional security for the Debt and other obligations under the Loan Documents. The Net Proceeds shall be disbursed by Lender to, or as directed by, Borrower from time to time during the course of the Restoration, upon receipt of evidence satisfactory to Lender that (A) all materials installed and work and labor performed (except to the extent that they are to be paid for out of the requested disbursement) in connection with the Restoration have been paid for in full, and (B) there exist no notices of pendency, stop orders, mechanic's or materialman's liens or notices of intention to file same, or any other liens or encumbrances of any nature whatsoever on the Individual Property which have not either

been fully bonded to the satisfaction of Lender and discharged of record or in the alternative fully insured to the satisfaction of Lender by the title company issuing the Title Insurance Policies.

(iii) All plans and specifications required in connection with the Restoration shall be subject to prior review and acceptance in all respects by Lender and by an independent consulting engineer selected by Lender (the "Casualty Consultant"). Lender shall have the use of the plans and specifications and all permits, licenses and approvals required or obtained in connection with the Restoration. The identity of the contractors, subcontractors and materialmen engaged in the Restoration, as well as the contracts under which they have been engaged, shall be subject to prior review and acceptance by Lender and the Casualty Consultant. All reasonable costs and expenses incurred by Lender in connection with making the Net Proceeds available for the Restoration including, without limitation, reasonable counsel fees and disbursements and the Casualty Consultant's fees, shall be paid by Borrower.

(iv) In no event shall Lender be obligated to make disbursements of the Net Proceeds in excess of an amount equal to the costs actually incurred from time to time for work in place as part of the Restoration, as certified by the Casualty Consultant, minus the Casualty Retainage. The term "Casualty Retainage" shall mean an amount equal to ten percent (10%) of the costs actually incurred for work in place as part of the Restoration, as certified by the Casualty Consultant, until the Restoration has been completed. The Casualty Retainage shall in no event, and notwithstanding anything to the contrary set forth above in this Section 6.4(b), be less than the amount actually held back by Borrower from contractors, subcontractors and materialmen engaged in the Restoration. The Casualty Retainage shall not be released until the Casualty Consultant certifies to Lender that the Restoration has been completed in accordance with the provisions of this Section 6.4(b) and that all approvals necessary for the re-occupancy and use of the Individual Property have been obtained from all appropriate governmental and quasi-governmental authorities, and Lender receives evidence satisfactory to Lender that the costs of the Restoration have been paid in full or will be paid in full out of the Casualty Retainage; provided, however, that Lender will release the portion of the Casualty Retainage being held with respect to any contractor, subcontractor or materialman engaged in the Restoration as of the date upon which the Casualty Consultant certifies to Lender that the contractor, subcontractor or materialman has satisfactorily completed all work and has supplied all materials in accordance with the provisions of the contractor's, subcontractor's or materialman's contract, the contractor, subcontractor or materialman delivers the lien waivers and evidence of payment in full of all sums due to the contractor, subcontractor or materialman as may be reasonably requested by Lender or by the title company issuing the Title Insurance Policy, and Lender receives an endorsement to the Title Insurance Policies insuring the continued priority of the lien of the Mortgages and evidence of payment of any premium payable for such endorsement. If required by Lender, the release of any such portion of the Casualty Retainage shall be approved by the surety company, if any, which has issued a payment or performance bond with respect to the contractor, subcontractor or materialman.