

Freddie Mac Loan Number: 506978850
 Property Name: Lakeview Apartments

MULTIFAMILY LOAN AND SECURITY AGREEMENT

(Revised 6-15-2021)

SUMMARY OF LOAN TERMS

The following information in this Summary of Loan Terms (“**Summary**”) is incorporated into and deemed part of this Multifamily Loan and Security Agreement (“**Loan Agreement**”).

Parties, Effective Date, Loan Amount	
Borrower(s):	VE LAKEVIEW LP, a Georgia limited partnership
Lender:	WALKER & DUNLOP, LLC, a Delaware limited liability company
Effective Date:	9/24/2021
Loan Amount:	\$2,564,000.00

Property Manager [See Section 6.09(d)]	
<input checked="" type="checkbox"/>	DALCOR MANAGEMENT, INC., an Alabama corporation, or another residential rental property manager that is approved by Lender in writing.
<input type="checkbox"/>	Mortgaged Property is self-managed by Borrower [See Self Management Rider]

SPE Equity Owner [See Section 6.13]	
<input checked="" type="checkbox"/>	Not applicable. Borrower will not be required to maintain an SPE Equity Owner in its organizational structure during the term of the Loan and all references to SPE Equity Owner in this Loan Agreement and in the Note are not applicable.
<input type="checkbox"/>	_____, a single member Delaware limited liability company
<input type="checkbox"/>	_____, a _____ corporation
<i>An SPE Equity Owner is required if: (1) The Loan Amount is \$25,000,000 or greater or the Loan is part of a crossed pool that is \$25,000,000 or greater, and (2) Borrower is a limited partnership or limited liability company with more than one equity member.</i>	

Required Equity Owner [See Section 7.03(c)(ii)]	
<input type="checkbox"/>	Name of Required Equity Owner: _____ Required Equity Ownership Interest: _____ %

Conditionally Permitted Transfers [See Section 7.03]	
<input checked="" type="checkbox"/>	N/A
<input type="checkbox"/>	Transfer to Previously Underwritten Person [See Section 7.03(a)(iii)] Prior Borrower Principal: _____ Previously Underwritten Person: _____
<input type="checkbox"/>	Co-Owner Transfer [See Section 7.03(a)(iv)] Required Co-Owner: _____ Required Co-Owner Interest in the Mortgaged Property: _____
<input type="checkbox"/>	TIC Roll-up Transfer [See Section 7.03(a)(v)] Consolidation Borrower Manager: _____
<input type="checkbox"/>	Preferred Equity Control Take-Over-Transfer [See Section 7.03(b)(ii)] Preferred Equity Investor: _____
<input type="checkbox"/>	Buy-Sell Transfer [See Section 7.03(b)(iii)] Buy-Sell Equity Investor: _____
<input type="checkbox"/>	Other(s): <i>[Describe & specify whether the Transfer is described in a rider or in Exhibit B]</i>

Imposition Reserves [See Section 4.02 of this Loan Agreement and Section 9 of the Note]		
Collect	Deferred	
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Property Insurance premiums or premiums for other Insurance required by Lender
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Taxes and payments in lieu of taxes (PILOT)
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Water and sewer charges that could become a Lien on the Mortgaged Property
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Assessments or other charges that could become a Lien on the Mortgaged Property, including home owner association dues
<input type="checkbox"/>	<input type="checkbox"/>	Ground Rents <u>or</u> <input checked="" type="checkbox"/> N/A

Replacement Reserve Initial Deposit [See Section 4.04]	
\$0.00	
Replacement Reserve Monthly Deposit [See Section 4.04]	
\$2,848.00	
<input type="checkbox"/>	Deferred
<input checked="" type="checkbox"/>	Funded
<input type="checkbox"/>	Capped at \$ _____ (if applicable) (the "Replacement Reserve Cap")

<input type="checkbox"/>	Additional Deposit of \$ _____ (if applicable) Additional Deposit Date: ____/____/20____ Additional Replacements Completion Date: ____/____/20____ or Additional Deposit Final Drawdown Date: ____/____/20____
Minimum Replacement Disbursement Request Amount: \$5,000.00	
Replacement Reserve Disbursement Period: quarterly	

Required Repairs [See Section 4.03 and Section 6.14]	
<input checked="" type="checkbox"/>	Repair(s) required – see the Repair Schedule of Work in Exhibit C
<input type="checkbox"/>	No Repairs required
Minimum Repair Disbursement Request Amount: \$5,000.00	
Repair Reserve Disbursement Period: thirty (30) days	
Priority Repair Reserve Deposit [See Section 4.03]	
\$39,125.00	
After all Repairs are completed, any remaining Repair Reserve funds will be either [choose one]:	
<input checked="" type="checkbox"/>	Returned to Borrower
<input type="checkbox"/>	Deposited into the Replacement Reserve Fund

Radon [See Applicable Rider]		
<input checked="" type="checkbox"/>	N/A	
<input type="checkbox"/>	Radon Screening required – (with possible Radon Testing, and possible Radon Remediation)	Units:
<input type="checkbox"/>	Radon Testing required – (with possible Radon Remediation)	Units:
<input type="checkbox"/>	Radon Remediation requirement identified as of the Effective Date \$0 _____ (“Radon Repair Reserve Deposit”)	Units:

Other Required Reserve Fund Deposits [See Article IV and Applicable Rider(s)]	
<input type="checkbox"/>	Green Repair Reserve Deposit \$ _____ Green Improvements Completion Date: ____/____/20____ After all Green Improvements are completed, any remaining Green Repair Reserve funds will be [choose one]: <input type="checkbox"/> Returned to Borrower <input type="checkbox"/> Deposited into the Replacement Reserve Fund

<input checked="" type="checkbox"/>	Rate Cap Reserve Deposit
<input type="checkbox"/>	Rental Achievement Reserve Deposit \$ _____ <input type="checkbox"/> Cash <input type="checkbox"/> Letter of Credit
<input type="checkbox"/>	Lease-Up Credit Enhancement Amount \$ _____
<input checked="" type="checkbox"/>	Other(s): [List and repeat as necessary] Section 8 Housing Assistance Payment Reserve \$99,780.33

Insurance – Borrower Proof of Loss [See Section 6.10(k)]	
\$50,000.00	Borrower Proof of Loss Threshold <i>Insert the amount that is the greater of (i) \$50,000 or (ii) 0.5% of the Loan Amount, rounded to the nearest \$1,000, not to exceed \$200,000</i>
\$200,000.00	Borrower Proof of Loss Maximum <i>Insert the amount that is equal to 4 times the (final, rounded) Borrower Proof of Loss Threshold, not to exceed \$800,000</i>

Purpose of Loan [See Section 5.24]	
<input type="checkbox"/>	Refinance Loan
<input checked="" type="checkbox"/>	Acquisition Loan – Mortgaged Property Property Seller: LAKEVIEW GA AFFORDABLE LLC, a Georgia limited liability company
<input type="checkbox"/>	Acquisition Loan – Membership Interests Membership Interest Seller: _____
<input type="checkbox"/>	Supplemental Loan
<input type="checkbox"/>	Cross-Collateralized/Cross-Defaulted Loan Pool

Moisture Management Plan and O&M Program(s) [See Sections 6.06 and 6.12]	
<input type="checkbox"/>	Moisture Management Plan (MMP) required
<input checked="" type="checkbox"/>	O&M Program(s) required: LEAD BASED PAINT

Minimum Occupancy and Maximum Combined LTV [See Sections 6.09 and 11.11 (b)(v)]	
85%	Minimum Occupancy (applicable for Property Improvement Alterations)
80%	Maximum Combined LTV (applicable for a Supplemental Loan request)

Senior Instrument [See Sections 3.02 and 9.01(n)]	
<input checked="" type="checkbox"/>	N/A - the Loan relates to a first Lien on the Mortgaged Property.

<input type="checkbox"/>	This is a Supplemental Loan, and each Senior Instrument is described below.	
	[Name of Senior Instrument]	
	To or for the benefit of: _____	
	Effective Date: / /20_____	Recording Date: / /20_____
	Book/Page or Instrument Number: _____	
	Assigned to Freddie Mac	
	Instrument: _____	
	Effective Date: / /20_____	Recording Date: / /20_____
	Book/Page or Instrument Number: _____	
	Assigned to _____	
	Instrument: _____	
Effective Date: / /20_____	Recording Date: / /20_____	
Book/Page or Instrument Number: _____		

Notice Requirements [See Section 11.03]	
If to Lender:	WALKER & DUNLOP, LLC , a Delaware limited liability company 7501 Wisconsin Avenue, Suite 1200E Bethesda, Maryland 20814-6531 Attention: Servicing Department
If to Borrower:	VE LAKEVIEW LP , a Georgia limited partnership 150 East 52 nd Street, 14 th Floor New York, New York 10022 Attn: Michael Callaghan
Courtesy Copy to:	Arnall Golden Gregory LLP 171 17 th Street NW, Suite 2100 Atlanta, Georgia 30363 Attention: Althea J. K. Broughton

Exhibits		
<input checked="" type="checkbox"/>	Exhibit A	Description of the Land (<u>required</u>)
<input checked="" type="checkbox"/>	Exhibit B	Modifications to Multifamily Loan and Security Agreement
<input checked="" type="checkbox"/>	Exhibit C	Repair Schedule of Work
<input checked="" type="checkbox"/>	Exhibit D	Repair Disbursement Request (<u>required</u>)
<input checked="" type="checkbox"/>	Exhibit E	Work Commenced at Mortgaged Property
<input checked="" type="checkbox"/>	Exhibit F	RESERVED
<input checked="" type="checkbox"/>	Exhibit G	Description of Ground Lease
<input checked="" type="checkbox"/>	Exhibit H	Organizational Chart of Borrower as of the Date of this Loan Agreement (<u>required</u>)
<input checked="" type="checkbox"/>	Exhibit I	Designated Entities for Transfers and Guarantor(s) (<u>required</u>)
<input type="checkbox"/>	Exhibit J	Description of Release Parcel
<input type="checkbox"/>	Exhibit K	RESERVED
<input type="checkbox"/>	Exhibit L	RESERVED
<input type="checkbox"/>	Exhibit M	RESERVED
<input type="checkbox"/>	Exhibit N	RESERVED
<input checked="" type="checkbox"/>	Exhibit O	Borrower's Certificate of Property Improvement Alterations Completion (<u>required</u>)
<input checked="" type="checkbox"/>	<u>EXHIBIT P</u>	<u>RESERVED</u>
<input checked="" type="checkbox"/>	<u>EXHIBIT Q</u>	<u>Schedule of Incomplete Loan Items and Special Post-Closing Requirements</u>

Attached Rider(s)	Date Revised
REGULATORY AGREEMENT	6/15/2021
SECTION 8 HOUSING ASSISTANCE PAYMENTS CONTRACT	10/1/2020
SINGLE PURPOSE ENTITY BORROWER (LOANS \$20,000,000 OR LESS)	10/1/2020
RATE CAP AGREEMENT AND RATE CAP AGREEMENT RESERVE FUND	3/1/2021
SECTION 8 HOUSING ASSISTANCE PAYMENTS RESERVE	10/1/2020
COVID-19 ADDITIONAL REQUIREMENTS	5/21/2021
RECYCLED BORROWER	10/1/2020

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MULTIFAMILY LOAN AND SECURITY AGREEMENT

This Loan Agreement is dated as of the 24th day of September, 2021 and is made by and between **VE LAKEVIEW LP**, a Georgia limited partnership ("**Borrower**"), and **WALKER & DUNLOP, LLC**, a Delaware limited liability company (together with its successors and assigns, "**Lender**").

RECITAL

Lender has agreed to make and Borrower has agreed to accept a loan in the original principal amount of **\$2,564,000.00** ("**Loan**"). Lender is willing to make the Loan to Borrower upon the terms and subject to the conditions set forth in this Loan Agreement.

AGREEMENT

NOW, THEREFORE, in consideration of these promises, the mutual covenants contained in this Loan Agreement and other good and valuable consideration, the receipt and sufficiency of which are acknowledged, the parties agree as follows:

ARTICLE I DEFINED TERMS; CONSTRUCTION.

1.01 Defined Terms. Each defined term in this Loan Agreement will have the meaning ascribed to that term in Article XII unless otherwise defined in this Loan Agreement.

1.02 Construction.

- (a) The captions and headings of the Articles and Sections of this Loan Agreement are for convenience only and will be disregarded in construing this Loan Agreement.
- (b) Any reference in this Loan Agreement to an "Exhibit," an "Article" or a "Section" will, unless otherwise explicitly provided, be construed as referring, respectively, to an Exhibit attached to this Loan Agreement or to an Article or Section of this Loan Agreement.
- (c) All Exhibits and Riders attached to or referred to in this Loan Agreement are incorporated by reference in this Loan Agreement.
- (d) Any reference in this Loan Agreement to a statute or regulation will be construed as referring to that statute or regulation as amended from time to time.
- (e) Use of the singular in this Loan Agreement includes the plural and use of the plural includes the singular.
- (f) As used in this Loan Agreement, the term "including" means "including, but not limited to" and the term "includes" means "includes without limitation."
- (g) The use of one gender includes the other gender, as the context may require.
- (h) Unless the context requires otherwise, (i) any definition of or reference to any agreement, instrument or other document in this Loan Agreement will be construed

as referring to such agreement, instrument or other document as from time to time amended, supplemented or otherwise modified (subject to any restrictions on such amendments, supplements or modifications set forth in this Loan Agreement), and (ii) any reference in this Loan Agreement to any Person will be construed to include such Person's successors and assigns.

- (i) Any reference in this Loan Agreement to "Lender's requirements," "as required by Lender," or similar references will be construed, after Securitization, to mean Lender's requirements or standards as determined in accordance with Lender's and Loan Servicer's obligations under the terms of the Securitization documents.
- (j) Any reference in this Loan Agreement to "Lender's consent," will be construed to mean Lender's written consent.

ARTICLE II LOAN.

- 2.01 Loan Terms.** The Loan will be evidenced by the Note and will bear interest and be paid in accordance with the payment terms set forth in the Note.
- 2.02 Prepayment Premium.** Borrower will be required to pay a prepayment premium in connection with certain prepayments of the Indebtedness, including a payment made after Lender's exercise of any right of acceleration of the Indebtedness, as provided in the Note.
- 2.03 Exculpation.** Borrower's personal liability for payment of the Indebtedness and for performance of the other obligations to be performed by it under this Loan Agreement is limited in the manner, and to the extent, provided in the Note.
- 2.04 Application of Payments.** If at any time Lender receives, from Borrower or otherwise, any amount applicable to the Indebtedness which is less than all amounts due and payable at such time, then Lender may apply that payment to amounts then due and payable in any manner and in any order determined by Lender (unless otherwise required by applicable law), in Lender's sole and absolute discretion. Neither Lender's acceptance of an amount that is less than all amounts then due and payable, nor Lender's application of such payment in the manner authorized, will constitute or be deemed to constitute either a waiver of the unpaid amounts or an accord and satisfaction. Notwithstanding the application of any such amount to the Indebtedness, Borrower's obligations under this Loan Agreement, the Note and all other Loan Documents will remain unchanged.
- 2.05 Usury Savings.** If any applicable law limiting the amount of interest or other charges permitted to be collected from Borrower is interpreted so that any charge provided for in any Loan Document, whether considered separately or together with other charges levied in connection with any other Loan Document, violates that law, and Borrower is entitled to the benefit of that law, that charge is reduced to the extent necessary to eliminate that violation. The amounts, if any, previously paid to Lender in excess of the permitted amounts will be applied by Lender to reduce the principal amount of the Indebtedness. For the purpose of determining whether any applicable law limiting the

amount of interest or other charges permitted to be collected from Borrower has been violated, all Indebtedness which constitutes interest, as well as all other charges levied in connection with the Indebtedness which constitute interest, will be deemed to be allocated and spread ratably over the stated term of the Note. Unless otherwise required by applicable law, such allocation and spreading will be effected in such a manner that the rate of interest so computed is uniform throughout the stated term of the Note.

2.06 Floating Rate Mortgage – Third-Party Cap Agreement. If (a) the Note does not provide for interest to accrue at a floating or variable interest rate (other than during any Extension Period, if applicable), and (b) a third-party Cap Agreement is not required, then this Section 2.06 and Section 3.04 will be of no force or effect.

- (a) So long as there is no Event of Default, Lender or Loan Servicer will remit to Borrower each Cap Payment received by Lender or Loan Servicer with respect to any month for which Borrower has paid in full the monthly installment of principal and interest or interest only, as applicable, due under the Note. Alternatively, at Lender's option, so long as there is no Event of Default, Lender may apply a Cap Payment received by Lender or Loan Servicer with respect to any month to the applicable monthly payment of accrued interest due under the Note if Borrower has paid in full the remaining portion of such monthly payment of principal and interest or interest only, as applicable.
- (b) Neither the existence of a Cap Agreement nor anything in this Loan Agreement will relieve Borrower of its primary obligation to timely pay in full all amounts due under the Note and otherwise due on account of the Indebtedness.

ARTICLE III LOAN SECURITY AND GUARANTY.

3.01 Security Instrument. Borrower will execute the Security Instrument dated of even date with this Loan Agreement. The Security Instrument will be recorded in the applicable land records in the Property Jurisdiction.

3.02 Reserve Funds.

- (a) Security Interest. To secure Borrower's obligations under this Loan Agreement and to further secure Borrower's obligations under the Note and the other Loan Documents, Borrower conveys, pledges, transfers and grants to Lender a security interest pursuant to the Uniform Commercial Code of the Property Jurisdiction or any other applicable law in and to all money in the Reserve Funds, as the same may increase or decrease from time to time, all interest and dividends thereon and all proceeds thereof.
- (b) Supplemental Loan. If this Loan Agreement is entered into in connection with a Supplemental Loan and if the same Person is or becomes both Senior Lender and Supplemental Lender, then:
 - (i) Borrower assigns and grants to Supplemental Lender a security interest in the Reserve Funds established in connection with the Senior Indebtedness

as additional security for all of Borrower's obligations under the Supplemental Note.

- (ii) In addition, Borrower assigns and grants to Senior Lender a security interest in the Reserve Funds established in connection with the Supplemental Indebtedness as additional security for all of Borrower's obligations under the Senior Note.
- (iii) It is the intention of Borrower that all amounts deposited by Borrower in connection with either the Senior Loan Documents, the Supplemental Loan Documents, or both, constitute collateral for the Supplemental Indebtedness secured by the Supplemental Instrument and the Senior Indebtedness secured by the Senior Instrument, with the application of such amounts to such Senior Indebtedness or Supplemental Indebtedness to be at the discretion of Senior Lender and Supplemental Lender.

3.03 Uniform Commercial Code Security Agreement. This Loan Agreement is also a security agreement under the Uniform Commercial Code for any of the Mortgaged Property which, under applicable law, may be subjected to a security interest under the Uniform Commercial Code, for the purpose of securing Borrower's obligations under this Loan Agreement and to further secure Borrower's obligations under the Note, Security Instrument and other Loan Documents, whether such Mortgaged Property is owned now or acquired in the future, and all products and cash and non-cash proceeds thereof (collectively, "UCC Collateral"), and by this Loan Agreement, Borrower grants to Lender a security interest in the UCC Collateral.

3.04 Cap Agreement and Cap Collateral Assignment. Reserved.

3.05 Guaranty. Borrower will cause each Guarantor (if any) to execute a Guaranty of all or a portion of Borrower's obligations under the Loan Documents effective as of the date of this Loan Agreement.

3.06 Reserved.

3.07 Reserved.

3.08 Reserved.

3.09 Reserved.

3.10 Reserved.

ARTICLE IV RESERVE FUNDS AND REQUIREMENTS.

4.01 Reserves Generally.

- (a) Establishment of Reserve Funds; Investment of Deposits. Unless otherwise provided in Section 4.03 and/or Section 4.04, each Reserve Fund will be

established on the date of this Loan Agreement and each of the following will apply:

- (i) All Reserve Funds will be deposited in an Eligible Account at an Eligible Institution or invested in "permitted investments" as then defined and required by the Rating Agencies.
- (ii) Lender will not be obligated to open additional accounts or deposit Reserve Funds in additional institutions when the amount of any Reserve Fund exceeds the maximum amount of the federal deposit insurance or guaranty. Borrower acknowledges and agrees that it will not have the right to direct Lender as to any specific investment of monies in any Reserve Fund. Lender will not be responsible for any losses resulting from investment of monies in any Reserve Fund or for obtaining any specific level or percentage of earnings on such investment.
- (b) Interest on Reserve Funds; Trust Funds. Unless applicable law requires, Lender will not be required to pay Borrower any interest, earnings or profits on the Reserve Funds. Any amounts deposited with Lender under this Article IV will not be trust funds, nor will they operate to reduce the Indebtedness, unless applied by Lender for that purpose pursuant to the terms of this Loan Agreement.
- (c) Use of Reserve Funds. Each Reserve Fund will, except as otherwise provided in this Loan Agreement, be used for the sole purpose of paying, or reimbursing Borrower for payment of, the item(s) for which the applicable Reserve Fund was established. Borrower acknowledges and agrees that, except as specified in this Loan Agreement, monies in one Reserve Fund will not be used to pay, or reimburse Borrower for, matters for which another Reserve Fund has been established.
- (d) Termination of Reserve Funds. Upon the payment in full of the Indebtedness, Lender will pay to Borrower all funds remaining in any Reserve Funds.
- (e) Reserved.

4.02 Reserves for Taxes, Insurance and Other Charges.

- (a) Deposits to Imposition Reserve Deposits. Borrower will deposit with Lender on the day monthly installments of principal or interest, or both, are due under the Note (or on another day designated in writing by Lender), until the Indebtedness is paid in full, an additional amount sufficient to accumulate with Lender the entire sum required to pay, when due, the items marked "Collect" in the Summary. Except as provided in this Section 4.02, Lender will not require Borrower to make Imposition Reserve Deposits with respect to the items marked "Deferred" in the Summary.

The amounts deposited pursuant to this Section 4.02(a) are collectively referred to in this Loan Agreement as the "**Imposition Reserve Deposits.**" The obligations of Borrower for which the Imposition Reserve Deposits are required are collectively referred to in this Loan Agreement as "**Impositions.**" The amount of the Imposition

Reserve Deposits must be sufficient to enable Lender to pay each Imposition before the last date upon which such payment may be made without any penalty or interest charge being added. Lender will maintain records indicating how much of the monthly Imposition Reserve Deposits and how much of the aggregate Imposition Reserve Deposits held by Lender are held for the purpose of paying Taxes, Insurance premiums, Ground Rent (if applicable) and each other Imposition.

- (b) Disbursement of Imposition Reserve Deposits. Lender will apply the Imposition Reserve Deposits to pay Impositions so long as no Event of Default has occurred and is continuing. Lender will pay all Impositions from the Imposition Reserve Deposits held by Lender upon Lender's receipt of a bill or invoice for an Imposition. If Borrower holds a ground lessee interest in the Mortgaged Property and Imposition Reserve Deposits are collected for Ground Rent, then Lender will pay the monthly or other periodic installments of Ground Rent from the Imposition Reserve Deposits, whether or not Lender receives a bill or invoice for such installments. Lender will have no obligation to pay any Imposition to the extent it exceeds the amount of the Imposition Reserve Deposits then held by Lender. Lender may pay an Imposition according to any bill, statement or estimate from the appropriate public office, Ground Lessor (if applicable) or insurance company without inquiring into the accuracy of the bill, statement or estimate or into the validity of the Imposition.
- (c) Excess or Deficiency of Imposition Reserve Deposits. If at any time the amount of the Imposition Reserve Deposits held by Lender for payment of a specific Imposition exceeds the amount reasonably deemed necessary by Lender, the excess will be credited against future installments of Imposition Reserve Deposits. If at any time the amount of the Imposition Reserve Deposits held by Lender for payment of a specific Imposition is less than the amount reasonably estimated by Lender to be necessary, Borrower will pay to Lender the amount of the deficiency within 15 days after Notice from Lender.
- (d) Delivery of Invoices. Borrower will promptly deliver to Lender a copy of all notices of, and invoices for, Impositions.
- (e) Deferral of Collection of Any Imposition Reserve Deposits; Delivery of Receipts. If Lender does not collect an Imposition Reserve Deposit with respect to an Imposition either marked "Deferred" in the Summary or pursuant to a separate written deferral by Lender, then on or before the earlier of the date each such Imposition is due, or the date this Loan Agreement requires each such Imposition to be paid, Borrower will provide Lender with proof of payment of each such Imposition. Upon Notice to Borrower, Lender may revoke its deferral and require Borrower to deposit with Lender any or all of the Imposition Reserve Deposits listed in the Summary, regardless of whether any such item is marked "Deferred" (i) if Borrower does not timely pay any of the Impositions, (ii) if Borrower fails to provide timely proof to Lender of such payment, (iii) at any time during the existence of an Event of Default or (iv) upon placement of a Supplemental Loan in accordance with Section 11.11.

(f) through (j) are Reserved.

4.03 Repairs; Repair Reserve Fund.

(a) Repairs.

(i) Borrower must commence and complete the Repairs as required pursuant to this Section 4.03 and Section 6.14.

(ii) Prior to the applicable Completion Date for any Repairs, Borrower will deliver to Lender all the following:

(A) Contractor's Certificate. If required by Lender, a certificate signed by each major contractor and supplier of materials, as reasonably determined by Lender, engaged to provide labor or materials for the Repairs to the effect that such contractor or supplier has been paid in full for all work completed and that the portion of the Repairs provided by such contractor or supplier has been fully completed in accordance with the plans and specifications (if any) provided to it by Borrower and that such portion of the Repairs is in compliance with all applicable building codes and other rules and regulations promulgated by any applicable regulatory authority or Governmental Authority.

(B) Borrower's Certificate. A certificate signed by Borrower to the effect that the Repairs have been fully paid for and that all money disbursed from the Repair Reserve Fund has been used for the Repairs and no claim exists against Borrower or against the Mortgaged Property out of which a lien based on furnishing labor or material exists or might ripen. Borrower may except from the certificate described in the preceding sentence any claim(s) that Borrower intends to contest, provided that any such claim is described in Borrower's certificate and Borrower certifies to Lender that the money in the Repair Reserve Fund from the applicable Repair Reserve Deposit is sufficient to make payment of the full amount which might in any event be payable in order to satisfy such claim(s). If required by Lender, Borrower also must certify to Lender that the Repairs are in compliance with all applicable building codes and zoning ordinances.

(C) Engineer's Certificate. If required by Lender, a certificate signed by the professional engineer employed by Lender to the effect that the Repairs have been completed in a good and workmanlike manner in compliance with the Repair Schedule of Work and all applicable building codes, zoning ordinances and other rules and regulations promulgated by applicable regulatory or Governmental Authorities.

(D) Other Certificates. Any other certificates of approval, acceptance or compliance required by Lender from any Governmental Authority having jurisdiction over the Mortgaged Property and the Repairs.

(iii) If Lender, in Lender's Discretion, retains a professional inspection engineer or other qualified third party to inspect any Repairs pursuant to the terms of Section 6.06, Lender may charge Borrower an amount sufficient to pay all reasonable costs and expenses charged by such third-party inspector. If there is not a Repair Reserve Fund, Borrower will pay the amount of such item(s) to Lender immediately after Notice from Lender to Borrower of such charge(s).

(b) Repair Reserve Fund.

(i) This Section 4.03(b) will be applicable only if any of the following is true:

(A) Any of Priority Repair Reserve Deposit, Radon Repair Reserve Deposit, Green Repair Reserve Deposit, or Stab-Lok Repair Reserve Deposit are checked in the Summary.

(B) Lender has delivered a Radon Remediation Notice to Borrower and required a Radon Repair Reserve Deposit.

(C) Lender has delivered a Stab-Lok Remediation Notice to Borrower and required a Stab-Lok Repair Reserve Deposit.

(D) **Reserved.**

The provisions of this Section 4.03(b) are in addition to the provisions set forth in 4.03(a).

(ii) If any box is checked in the Summary, then Lender and Borrower acknowledge that Borrower has established the applicable Repair Reserve Fund by depositing the applicable Repair Reserve Deposit with Lender on the date of this Loan Agreement.

(iii) Lender will be entitled, but not obligated, to deduct from the Repair Reserve Fund the costs and expenses set forth in Section 4.03(a)(iii). If there are insufficient funds to pay for the costs and expenses set forth in Section 4.03(a)(iii) or Lender, in Lender's Discretion, determines, that it will not deduct such charges from the Repair Reserve Fund, then Borrower must pay the amount of such item(s) to Lender immediately after Notice from Lender to Borrower of such charge(s).

(iv) If Lender determines, in Lender's Discretion that the money in the Repair Reserve Fund is insufficient to pay for the Repairs, Lender will provide

Borrower with Notice of such insufficiency. As soon as possible (but in no event later than 20 days after such Notice) Borrower will pay to Lender an amount, in cash, equal to such deficiency, which Lender will deposit in the Repair Reserve Fund.

(v) The following will apply to disbursements from the Repair Reserve Fund:

(A) From time to time, as construction and completion of the Repairs progresses, upon Borrower's submission of a Repair Disbursement Request in the form attached to this Loan Agreement as Exhibit D, and provided that no Event of Default has occurred and no condition exists which but for the passage of time or giving of Notice, or both, would constitute an Event of Default, Lender will make disbursements from the Repair Reserve Fund for payment or reimbursement of the actual costs of the Repairs. In connection with each disbursement, Borrower must take each of the following actions:

- (I) Sign Borrower's Repair Disbursement Request.
- (II) Include with each Repair Disbursement Request a report setting out the progress of the Repairs and any other reports or information relating to the construction of the Repairs that may be reasonably requested by Lender.
- (III) Include with each Repair Disbursement Request copies of any applicable invoices and/or bills and appropriate lien waivers for the prior period for which disbursement was made, executed by all contractors and suppliers supplying labor or materials for the Repairs.
- (IV) Include with each Repair Disbursement Request, a report prepared by the professional engineer employed by Lender as to the status of the Repairs, unless Lender has waived this requirement in writing.
- (V) Include with each Repair Disbursement Request, Borrower's written representation and warranty that the Repairs as completed to the applicable stage do not violate any laws, ordinances, rules or regulations, or building setback lines or restrictions, applicable to the Mortgaged Property.
- (VI) Reserved.

- (B) Except for the final Repair Disbursement Request, no Repair Disbursement Request may be for an amount less than the Minimum Repair Disbursement Request Amount set forth in the Summary.
- (C) Lender will not be obligated to make any disbursement from the Repair Reserve Fund to or for the benefit of Borrower unless at the time of such Repair Disbursement Request all the following conditions exist:
 - (I) There exists no condition, event or act that would constitute a default (with or without Notice and/or lapse of time) under this Loan Agreement or any other Loan Document.
 - (II) Borrower is in full compliance with the provisions of this Loan Agreement, the other Loan Documents and any request or demand by Lender permitted by this Loan Agreement.
 - (III) No lien or claim based on furnishing labor or materials has been recorded, filed or asserted against the Mortgaged Property, unless Borrower has properly provided bond or other security against loss in accordance with applicable law.
 - (IV) All licenses, permits, and approvals of any Governmental Authority required for the Repairs as completed to the applicable stage have been obtained and submitted to Lender upon Lender's request.
- (D) Prior to and as a condition of the final disbursement of funds from the Repair Reserve Fund, Lender will have the right to inspect or cause the Repairs and Improvements to be inspected in accordance with the terms of Section 6.06(a), to determine whether all interior and exterior Repairs have been completed in a manner acceptable to Lender.
- (E) Lender, in its sole and absolute discretion, is authorized to hold, use and disburse funds from the Repair Reserve Fund to pay any and all costs, charges and expenses whatsoever and howsoever incurred or required in connection with the construction and completion of the Repairs, or, if an Event of Default has occurred and is continuing, in the payment or performance of any obligation of Borrower to Lender. If Lender, for purposes specified in this Section 4.03(b), elects to pay any portion of the money in the Repair Reserve Fund to parties other than Borrower, then Lender may do so, at any time and from time to time, and the amount of advances to which Borrower will be entitled under this Loan Agreement will be correspondingly reduced.

- (F) All disbursements from the Repair Reserve Fund will be limited to the costs of those items set forth on the Repair Schedule of Work. Without the prior written consent of Lender, Borrower will not request any payments from the Repair Reserve Fund other than for the costs of those items set forth on the Repair Schedule of Work and Borrower will not alter the Repair Schedule of Work.
- (vi) The provisions of this Section 4.03(b) will cease to be effective upon the completion of all Repairs in accordance with this Loan Agreement to Lender's satisfaction, and the full disbursement by Lender of the Repair Reserve Fund. If there are funds remaining in the Repair Reserve Fund after the Repairs have been completed in accordance with this Loan Agreement, and provided no Event of Default has occurred and is continuing under this Loan Agreement or under any of the other Loan Documents, and no condition exists which but for the passage of time or giving of Notice, or both, would constitute an Event of Default, such funds remaining in the Repair Reserve Fund will be refunded by Lender to Borrower or deposited by Lender into the Replacement Reserve Fund established by Lender pursuant to Section 4.04 in accordance with the Summary or in accordance with the applicable Rider to this Loan Agreement, as applicable.
- (c) Lender's Right to Complete Repairs. If Borrower abandons or fails to proceed diligently with the Repairs or there otherwise, exists an Event of Default under this Loan Agreement, Lender will have the right (but not the obligation) to enter upon the Mortgaged Property and take over and cause the completion of the Repairs. Any contracts entered into or indebtedness incurred upon the exercise of such right may be in the name of Borrower, and Lender is irrevocably appointed the attorney in fact of Borrower, such appointment being coupled with an interest, to enter into such contracts, incur such obligations, enforce any contracts or agreements made by or on behalf of Borrower (including the prosecution and defense of all actions and proceedings in connection with the Repairs and the payment, settlement, or compromise of all claims for materials and work performed in connection with the Repairs) and do any and all things necessary or proper to complete the Repairs including signing Borrower's name to any contracts and documents as may be deemed necessary by Lender. In no event will Lender be required to expend its own funds to complete the Repairs, but Lender may, in Lender's sole and absolute discretion, advance such funds. Any funds advanced will be added to the Indebtedness, secured by the Security Instrument and payable to Lender by Borrower in accordance with the provisions of the Loan Documents pertaining to the protection of Lender's security and advances made by Lender. Borrower waives any and all claims it may have against Lender for materials used, work performed or resultant damage to the Mortgaged Property.
- (d) Completion of Repairs. Lender's disbursement of monies in the Repair Reserve Fund or other acknowledgment of completion of any Repair in a manner

satisfactory to Lender will not be deemed a certification by Lender that the Repair has been completed in accordance with applicable building, zoning or other codes, ordinances, statutes, laws, regulations or requirements of any Governmental Authority. Borrower will have the sole responsibility for insuring that all Repairs are completed in accordance with all such governmental requirements.

- (e) **Reserved Radon**
- (f) **Reserved Existing Code Violations**
- (g) **Reserved Stab-Lok**
- (h) **Reserved**
- (i) **Reserved Green**
- (j) **Reserved**

4.04 Replacement Reserve Fund.

- (a) Deposits to Replacement Reserve Fund. On the Closing Date, the parties will establish the Replacement Reserve Fund and Borrower will pay the Initial Deposit to Lender for deposit into the Replacement Reserve Fund. Commencing on the date the first installment of principal and/or interest is due under the Note and continuing on the same day of each successive month until the Loan is paid in full, Borrower will pay the Monthly Deposit to Lender for deposit into the Replacement Reserve Fund, together with its regular monthly payments of principal and/or interest as required by the Note. A transfer of funds into the Replacement Reserve Fund from the Repair Reserve Fund, pursuant to the terms of Section 4.03(e), if applicable, will not alter or reduce the amount of any deposits to the Replacement Reserve Fund.
- (b) Costs Charged by Lender.
 - (i) If Lender, in Lender's Discretion, retains a professional inspection engineer or other qualified third party to inspect any Capital Replacements pursuant to the terms of Section 6.06, Lender may charge Borrower an amount sufficient to pay all reasonable costs and expenses charged by such third-party inspector.
 - (ii) If there are sufficient funds in the Replacement Reserve Fund, Lender will be entitled, but not obligated, to deduct from the Replacement Reserve Fund the costs and expenses set forth in Section 4.04(b)(i). Lender will be entitled to charge Borrower for such costs and expenses and Borrower will pay the amount of such item(s) to Lender immediately after Notice from Lender to Borrower of such charge(s).

- (iii) If there are insufficient funds in the Replacement Reserve Fund, then Lender will be entitled to charge Borrower for the costs and expenses specified in Section 4.04(b)(i), and Borrower will pay the amount of such item(s) to Lender immediately after Notice from Lender to Borrower of such charge(s).
- (c) Adjustments to Replacement Reserve Fund. If the initial term of the Loan is greater than 120 months, then the following provisions will apply:
- (i) Lender reserves the right to adjust the amount of the Monthly Deposit based on Lender's assessment of the physical condition of the Mortgaged Property, however, Lender will not make such an adjustment prior to the date that is 120 months after the first installment due date, nor more frequently than every 10 years thereafter during the term of the Loan.
 - (ii) Borrower will pay the cost of any assessment required by Lender pursuant to Section 4.04(c)(i) to Lender immediately after Notice from Lender to Borrower of such charge.
 - (iii) Upon Notice from Lender or Loan Servicer, Borrower will begin paying the Revised Monthly Deposit on the first monthly payment date that is at least 30 days after the date of Lender's or Loan Servicer's Notice. If Lender or Loan Servicer does not provide Borrower with Notice of a Revised Monthly Deposit, Borrower will continue to pay the Monthly Deposit or the Revised Monthly Deposit then in effect.
- (d) Insufficient Amount in Replacement Reserve Fund. If Borrower requests disbursement from the Replacement Reserve Fund for a Capital Replacement in accordance with this Loan Agreement in an amount which exceeds the amount on deposit in the Replacement Reserve Fund, Lender will disburse to Borrower only the amount on deposit in the Replacement Reserve Fund. Borrower will pay all additional amounts required in connection with any such Capital Replacement from Borrower's own funds.
- (e) Reserved.
- (f) Reserved.
- (g) Disbursements from Replacement Reserve Fund.
- (i) Requests for Disbursement. Lender will disburse funds from the Replacement Reserve Fund as follows:
 - (A) Borrower's Request. If Borrower determines, at any time or from time to time, that a Capital Replacement is necessary or desirable, Borrower will perform such Capital Replacement and request from

Lender, in writing, reimbursement for such Capital Replacement. Borrower's request for reimbursement will include (1) a detailed description of the Capital Replacement performed, together with evidence, satisfactory to Lender, that the cost of such Capital Replacement has been paid, and (2) if required by Lender, lien waivers from each contractor and material supplier supplying labor or materials for such Capital Replacement.

(B) Lender's Request. If Lender reasonably determines at any time or from time to time, that a Capital Replacement is necessary for the proper maintenance of the Mortgaged Property, it will provide Borrower with a Notice requesting that Borrower obtain and submit to Lender bids for all labor and materials required in connection with such Capital Replacement. Borrower will submit such bids and a time schedule for completing each Capital Replacement to Lender within 30 days after Borrower's receipt of Lender's Notice. Borrower will perform such Capital Replacement and request from Lender, in writing, reimbursement for such Capital Replacement. Borrower's request for reimbursement will include (1) a detailed description of the Capital Replacement performed, together with evidence, satisfactory to Lender, that the cost of such Capital Replacement has been paid, and (2) if required by Lender, lien waivers from each contractor and material supplier supplying labor or materials for such Capital Replacement.

(ii) Conditions Precedent. Disbursement from the Replacement Reserve Fund will be made no more frequently than once every Replacement Reserve Disbursement Period and, except for the final disbursement, no disbursement will be made in an amount less than the Minimum Replacement Disbursement Request Amount. Disbursements will be made only if the following conditions precedent have been satisfied, as determined by Lender in Lender's Discretion:

(A) Each Capital Replacement has been performed and/or installed on the Mortgaged Property in a good and workmanlike manner with suitable materials (or in the case of a partial disbursement, performed and/or installed on the Mortgaged Property to an acceptable stage), in accordance with good building practices and all applicable laws, ordinances, rules and regulations, building setback lines and restrictions applicable to the Mortgaged Property, and has been paid for by Borrower as evidenced by copies of all applicable paid invoices or bills submitted to Lender by Borrower at the time Borrower requests disbursement from the Replacement Reserve Fund.

- (B) There is no condition, event or act that would constitute a default (with or without Notice and/or lapse of time).
- (C) No Lien or claim based on furnishing labor or materials has been recorded, filed or asserted against the Mortgaged Property, unless Borrower has properly provided a bond or other security against loss in accordance with applicable law.
- (D) All licenses, permits and approvals of any Governmental Authority required for the Capital Replacement as completed to the applicable stage have been obtained and submitted to Lender upon Lender's request.

(h) Right to Complete Capital Replacements.

- (i) If Borrower abandons or fails to proceed diligently with any Capital Replacement in a timely fashion or an Event of Default occurs and continues under this Loan Agreement for 30 days after Notice of such failure by Lender to Borrower, Lender will have the right (but not the obligation) to enter upon the Mortgaged Property and take over and cause the completion of such Capital Replacement. However, no such Notice or cure period will apply in the case of such failure which could, in Lender's sole and absolute discretion, absent immediate exercise by Lender of a right or remedy under this Loan Agreement, result in harm to Lender, tenants or third parties or impairment of the security given under this Loan Agreement, the Security Instrument or any other Loan Document.
- (ii) Any contracts entered into or indebtedness incurred upon the exercise of such right may be in the name of Borrower. Lender is irrevocably appointed the attorney in fact for Borrower, such appointment being coupled with an interest, to do all of the following:
 - (A) Enter into such contracts.
 - (B) Incur such obligations.
 - (C) Enforce any contracts or agreements made by or on behalf of Borrower (including the prosecution and defense of all actions and proceedings in connection with the Capital Replacement and the payment, settlement or compromise of all bills and claims for materials and work performed in connection with the Capital Replacement).
 - (D) Do any and all things necessary or proper to complete any Capital Replacement, including signing Borrower's name to any contracts and documents as may be deemed necessary by Lender.

- (iii) In no event will Lender be required to expend its own funds to complete any Capital Replacement, but Lender may, in Lender's Discretion, advance such funds. Any funds advanced will be added to the Indebtedness, secured by the Security Instrument and payable to Lender by Borrower in accordance with the provisions of the Note, this Loan Agreement, the Security Instrument and any other Loan Document pertaining to the protection of Lender's security and advances made by Lender.
- (i) Completion of Capital Replacements. Lender's disbursement of monies from the Replacement Reserve Fund or other acknowledgment of completion of any Capital Replacement in a manner satisfactory to Lender in Lender's Discretion will not be deemed a certification by Lender that the Capital Replacement has been completed in accordance with applicable building, zoning or other codes, ordinances, statutes, laws, regulations or requirements of any Governmental Authority. Borrower will at all times have the sole responsibility for ensuring that all Capital Replacements are completed in accordance with all such requirements of any Governmental Authority.
- (j) Reserved.
- (k) Reserved.

4.05 Rental Achievement Provisions. Reserved.

4.06 Debt Service Reserve. Reserved.

4.07 Rate Cap Agreement Reserve Fund. Reserved.

4.08 Through 4.20 are Reserved.

ARTICLE V REPRESENTATIONS AND WARRANTIES.

Borrower represents and warrants to Lender as follows as of the date of this Loan Agreement:

- 5.01 Review of Documents.** Borrower has reviewed: (a) the Note, (b) the Security Instrument, (c) the Commitment Letter, and (d) all other Loan Documents.
- 5.02 Condition of Mortgaged Property.** Except as Borrower may have disclosed to Lender in writing in connection with the issuance of the Commitment Letter, the Mortgaged Property has not been damaged by fire, water, wind or other cause of loss, or any previous damage to the Mortgaged Property has been fully restored.
- 5.03 No Condemnation.** No part of the Mortgaged Property has been taken in Condemnation or other like proceeding, and, to the best of Borrower's knowledge after due inquiry and investigation, no such proceeding is pending or threatened for the partial or total Condemnation or other taking of the Mortgaged Property.

5.04 Actions; Suits; Proceedings.

- (a) There are no judicial, administrative, mediation or arbitration actions, suits or proceedings pending or, to the best of Borrower's knowledge, threatened in writing against or affecting Borrower (and, if Borrower is a limited partnership, any of its general partners or if Borrower is a limited liability company, any member of Borrower) or the Mortgaged Property which, if adversely determined, would have a Material Adverse Effect.
- (b) Reserved.

5.05 Environmental. Except as previously disclosed by Borrower to Lender in writing (which written disclosure may be in certain environmental assessments and other written reports accepted by Lender in connection with the funding of the Indebtedness and dated prior to the date of this Loan Agreement), each of the following is true:

- (a) Borrower has not at any time engaged in, caused or permitted any Prohibited Activities or Conditions on the Mortgaged Property.
- (b) To the best of Borrower's knowledge after due inquiry and investigation, no Prohibited Activities or Conditions exist or have existed on the Mortgaged Property.
- (c) The Mortgaged Property does not now contain any underground storage tanks, and, to the best of Borrower's knowledge after due inquiry and investigation, the Mortgaged Property has not contained any underground storage tanks in the past. If there is an underground storage tank located on the Mortgaged Property that has been previously disclosed by Borrower to Lender in writing, that tank complies with all requirements of Hazardous Materials Laws.
- (d) To the best of Borrower's knowledge after due inquiry and investigation, Borrower has complied with all Hazardous Materials Laws, including all requirements for notification regarding releases of Hazardous Materials. Without limiting the generality of the foregoing, all Environmental Permits required for the operation of the Mortgaged Property in accordance with Hazardous Materials Laws now in effect have been obtained and all such Environmental Permits are in full force and effect.
- (e) To the best of Borrower's knowledge after due inquiry and investigation, no event has occurred with respect to the Mortgaged Property that constitutes, or with the passage of time or the giving of notice, or both, would constitute, noncompliance with the terms of any Environmental Permit.
- (f) There are no actions, suits, claims or proceedings pending or, to the best of Borrower's knowledge after due inquiry and investigation, threatened in writing, that involve the Mortgaged Property and allege, arise out of, or relate to any Prohibited Activity or Condition.

- (g) Borrower has received no actual or constructive notice of any written complaint, order, notice of violation or other communication from any Governmental Authority with regard to air emissions, water discharges, noise emissions or Hazardous Materials, or any other environmental, health or safety matters affecting the Mortgaged Property or any property that is adjacent to the Mortgaged Property.

5.06 Commencement of Work; No Labor or Materialmen's Claims. Except as set forth on Exhibit E, prior to the recordation of the Security Instrument, no work of any kind has been or will be commenced or performed upon the Mortgaged Property, and no materials or equipment have been or will be delivered to or upon the Mortgaged Property, for which the contractor, subcontractor or vendor continues to have any rights including the existence of or right to assert or file a mechanic's or materialmen's Lien. If any such work of any kind has been commenced or performed upon the Mortgaged Property, or if any such materials or equipment have been ordered or delivered to or upon the Mortgaged Property, then prior to the execution of the Security Instrument, Borrower has satisfied each of the following conditions:

- (a) Borrower has fully disclosed in writing to both Lender and the title company issuing the Title Policy that work has been commenced or performed on the Mortgaged Property, or materials or equipment have been ordered or delivered to or upon the Mortgaged Property.
- (b) Borrower has obtained and delivered to Lender and the title company issuing the Title Policy Lien waivers from all contractors, subcontractors, suppliers or any other applicable party, pertaining to all work commenced or performed on the Mortgaged Property, or materials or equipment ordered or delivered to or upon the Mortgaged Property.

Borrower represents and warrants that all parties furnishing labor and materials for which a Lien or claim of Lien may be filed against the Mortgaged Property have been paid in full and, except for such Liens or claims insured against by the Title Policy (which Borrower has disclosed pursuant to Section 5.06(a) and which are identified on Exhibit E), there are no mechanics', laborers' or materialmen's Liens or claims outstanding for work, labor or materials affecting the Mortgaged Property, whether prior to, equal with or subordinate to the Lien of the Security Instrument.

5.07 Compliance with Applicable Laws and Regulations.

- (a) To the best of Borrower's knowledge after due inquiry and investigation, each of the following is true:
 - (i) All Improvements and the use of the Mortgaged Property comply with all applicable statutes, rules and regulations, including all applicable statutes, rules and regulations pertaining to requirements for equal opportunity, anti-discrimination, fair housing, environmental protection, zoning and land use ("legal, non-conforming" status with respect to uses or structures will be

considered to comply with zoning and land use requirements for the purposes of this representation).

- (ii) The Improvements comply with applicable health, fire, and building codes.
 - (iii) There is no evidence of any illegal activities relating to controlled substances on the Mortgaged Property.
- (b) Reserved.
- (c) Reserved.

5.08 Access; Utilities; Tax Parcels. The Mortgaged Property: (a) has ingress and egress via a publicly dedicated right of way or via an irrevocable easement permitting ingress and egress, (b) is served by public utilities and services generally available in the surrounding community or otherwise appropriate for the use in which the Mortgaged Property is currently being utilized, and (c) constitutes one or more separate tax parcels.

5.09 Licenses and Permits.

- (a) Borrower and any operator of the Mortgaged Property, if applicable, and to the best of Borrower's knowledge, any commercial tenant of the Mortgaged Property is in possession of all material licenses, permits and authorizations required for use of the Mortgaged Property, which are valid and in full force and effect as of the date of this Loan Agreement.
- (b) through (i) are Reserved.

5.10 No Other Interests. To the best of Borrower's knowledge after due inquiry and investigation, no Person has (a) any possessory interest in the Mortgaged Property or right to occupy the Mortgaged Property except under and pursuant to the provisions of existing Leases by and between tenants and Borrower (a form of residential lease having been previously provided to Lender together with the material terms of any and all Non-Residential Leases at the Mortgaged Property), or (b) an option to purchase the Mortgaged Property or an interest in the Mortgaged Property, except as has been disclosed to and approved in writing by Lender.

5.11 Term of Leases. All Leases for residential units with respect to the Mortgaged Property satisfy each of the following conditions:

- (a) They are on forms that are customary for similar multifamily properties in the Property Jurisdiction.
- (b) They are for initial terms of at least 6 months and not more than 2 years (unless otherwise approved in writing by Lender).
- (c) They do not include any Corporate Leases (unless otherwise approved in writing by Lender).

(d) They do not include options to purchase.

5.12 No Prior Assignment; Prepayment of Rents. Borrower has (a) not executed any prior assignment of Rents (other than an assignment of Rents securing any prior indebtedness that is being assigned to Lender, or that is being paid off and discharged with the proceeds of the Loan evidenced by the Note or, if this Loan Agreement is entered into in connection with a Supplemental Loan, other than an assignment of Rents securing any Senior Indebtedness), and (b) not performed any acts and has not executed, and will not execute, any instrument which would prevent Lender from exercising its rights under any Loan Document. At the time of execution of this Loan Agreement, unless otherwise approved by Lender in writing, there has been no prepayment of any Rents for more than 2 months prior to the due dates of such Rents other than the last month's rent, if collected at the time a tenant enters into a Lease.

5.13 Illegal Activity. No portion of the Mortgaged Property has been or will be purchased with the proceeds of any illegal activity.

5.14 Taxes Paid. Borrower has filed all federal, state, county and municipal tax returns required to have been filed by Borrower, and has paid all Taxes which have become due pursuant to such returns or to any notice of assessment received by Borrower, and Borrower has no knowledge of any basis for additional assessment with respect to such Taxes. To the best of Borrower's knowledge after due inquiry and investigation, there are not presently pending any special assessments against the Mortgaged Property or any part of the Mortgaged Property.

5.15 Title Exceptions. To the best of Borrower's knowledge after due inquiry and investigation, none of the items shown in the schedule of exceptions to coverage in the Title Policy will have a Material Adverse Effect on the (a) ability of Borrower to pay the Loan in full, (b) ability of Borrower to use all or any part of the Mortgaged Property in the manner in which the Mortgaged Property is being used on the Closing Date, except as set forth in Section 6.03, (c) operation of the Mortgaged Property, or (d) value of the Mortgaged Property.

5.16 No Change in Facts or Circumstances.

(a) All information in the application for the Loan submitted to Lender, including all financial statements for the Mortgaged Property, Borrower, and any Borrower Principal, and all Rent Schedules, reports, certificates, and any other documents submitted in connection with the application (collectively, "**Loan Application**") is complete and accurate in all material respects as of the date such information was submitted to Lender.

(b) There has been no change in any fact or circumstance since the Loan Application was submitted to Lender that would make any information submitted as part of the Loan Application materially incomplete or inaccurate.

(c) The organizational structure of Borrower is as set forth in Exhibit H.

5.17 Financial Statements. The financial statements of Borrower and each Borrower Principal furnished to Lender as part of the Loan Application reflect in each case a positive net worth as of the date of the applicable financial statement.

5.18 ERISA – Borrower Status. Borrower represents as follows:

- (a) Borrower is not an “investment company,” or a company under the Control of an “investment company,” as such terms are defined in the Investment Company Act of 1940, as amended.
- (b) Borrower is not an “employee benefit plan,” as defined in Section 3(3) of ERISA, which is subject to Title I of ERISA or a “plan” to which Section 4975 of the Tax Code applies, and the assets of Borrower do not constitute “plan assets” of one or more such plans within the meaning of 29 C.F.R. Section 2510.3-101, as modified by Section 3(42) of ERISA.
- (c) Borrower is not a “governmental plan” within the meaning of Section 3(32) of ERISA, and is not subject to state statutes regulating investments or fiduciary obligations with respect to governmental plans.

5.19 No Fraudulent Transfer or Preference. No Borrower or Borrower Principal (a) has made, or is making in connection with and as security for the Loan, a transfer of an interest in the property of Borrower or Borrower Principal to or for the benefit of Lender or otherwise as security for any of the obligations under the Loan Documents which is or could constitute a voidable preference under federal bankruptcy, state insolvency or similar applicable creditors’ rights laws, or (b) has made, or is making in connection with the Loan, a transfer (including any transfer to or for the benefit of an insider under an employment contract) of an interest of Borrower or any Borrower Principal in property which is or could constitute a voidable preference under federal bankruptcy, state insolvency or similar applicable creditors’ rights laws, or (c) has incurred, or is incurring in connection with the Loan, any obligation (including any obligation to or for the benefit of an insider under an employment contract) which is or could constitute a fraudulent transfer under federal bankruptcy, state insolvency, or similar applicable creditors’ rights laws.

5.20 No Insolvency or Judgment.

- (a) No Pending Proceedings or Judgments. No Borrower or Borrower Principal is (i) the subject of or a party to (other than as a creditor) any completed or pending Bankruptcy, or (ii) the subject of any judgment unsatisfied of record or docketed in any court located in the United States.
- (b) Insolvency. Borrower is not presently insolvent, and the Loan will not render Borrower insolvent. As used in this Section, the term “insolvent” means that the total of all of a Person’s liabilities (whether secured or unsecured, contingent or fixed, or liquidated or unliquidated) is in excess of the value of all of the assets of the Person that are available to satisfy claims of creditors.

5.21 Working Capital. After the Loan is made, Borrower intends to have sufficient working capital, including cash flow from the Mortgaged Property or other sources, not only to adequately maintain the Mortgaged Property, but also to pay all of Borrower's outstanding debts as they come due (other than any balloon payment due upon the maturity of the Loan). Lender acknowledges that no members or partners of Borrower or any Borrower Principal will be obligated to contribute equity to Borrower for purposes of providing working capital to maintain the Mortgaged Property or to pay Borrower's outstanding debts except as may otherwise be required under their organizational documents.

5.22 Cap Collateral. Reserved.

5.23 Ground Lease. Reserved.

5.24 Purpose of Loan. The purpose of the Loan is as indicated by the checked boxes in the Summary.

- (a) Refinance Loan: If "Refinance Loan" is checked in the Summary, then Borrower has fully disclosed to Lender the intended use of any cash received by Borrower from Lender in connection with the refinancing, if applicable.
- (b) Acquisition Loan – Mortgaged Property: If "Acquisition Loan – Mortgaged Property" is checked in the Summary, then Borrower has fully disclosed to Lender all the consideration given or received or to be given or received in connection with the acquisition of the Mortgaged Property. The Mortgaged Property was or will be purchased from the Property Seller set forth in the Summary. No Borrower or Borrower Principal has or had, directly or indirectly (through a family member or otherwise), any interest in the Property Seller and the acquisition of the Mortgaged Property is an arm's-length transaction. To the best of Borrower's knowledge after due inquiry and investigation, the purchase price of the Mortgaged Property represents the fair market value of the Mortgaged Property and Property Seller is not or will not be insolvent subsequent to the sale of the Mortgaged Property.
- (c) Acquisition Loan – Membership Interests: If "Acquisition Loan – Membership Interests" is checked in the Summary, then Borrower has fully disclosed to Lender all the consideration given or received or to be given or received in connection with the acquisition of 100% of the Membership Interests. The Membership Interests were or will be purchased from Membership Interests Seller set forth in the Summary. No Borrower Principal has or had, directly or indirectly (through a family member or otherwise), any interest in the Membership Interests Seller and the acquisition of the Membership Interests is an arm's-length transaction. To the best of Borrower's knowledge after due inquiry and investigation, the purchase price of the Membership Interests represents the fair market value of the Membership Interests and Membership Interests Seller is not or will not be insolvent subsequent to the sale of the Membership Interests.

- (d) Supplemental Loan: If “Supplemental Loan” is checked in the Summary, then and, except to the extent specifically required or approved by Lender, there has been no change in the ownership of either the Mortgaged Property or Borrower Principals since the date of the Senior Note. Borrower has fully disclosed to Lender the intended use of any cash received by Borrower from Lender in connection with the Supplemental Loan, if applicable.
- (e) Cross-Collateralized/Cross-Defaulted Loan Pool: If “Cross-Collateralized/Cross-Defaulted Loan Pool” is checked in the Summary, then the Loan is part of a cross-collateralized/cross-defaulted pool of loans and Borrower has fully disclosed to Lender the intended use of any cash received by Borrower from Lender in connection with the Loan and the other loans comprising the cross-collateralized/cross-defaulted loan pool, if applicable.

5.25 through 5.39 are Reserved.

5.40 Recycled Borrower. Reserved.

5.41 Recycled SPE Equity Owner. Reserved.

5.42 through 5.50 are Reserved.

5.51 Survival. The representations and warranties set forth in this Loan Agreement will survive until the Indebtedness is paid in full; however, the representations and warranties set forth in Section 5.05 will survive beyond repayment of the entire Indebtedness, to the extent provided in Section 10.02(j).

5.52 through 5.57 are Reserved.

5.58 Prohibited Parties Lists.

- (a) Borrower is not identified and to the best of Borrower’s knowledge after due inquiry and investigation, no Borrower Principal nor any Non-U.S. Equity Holder is identified on the OFAC Lists.
- (b) Borrower is not listed and to the best of Borrower’s knowledge after due inquiry and investigation, no Borrower Principal is listed on the FHFA SCP List.

Notwithstanding the foregoing, Lender acknowledges and agrees that if any entity which owns a direct or indirect interest in Borrower is a Public Company, then unless such Public Company exercises control over the purchase and sale of its publicly traded equity securities to a particular investor (other than as a placement agent), the representations set forth in this Section 5.58 will not be deemed to apply to the direct or indirect ownership in such Public Company.

5.59 AML Laws.

- (a) Borrower has not been convicted of a violation of the AML Laws or been the subject of a final enforcement action relating to the AML Laws.

- (b) To the best of Borrower's knowledge after due inquiry and investigation, no Borrower Principal nor Non-U.S. Equity Holder has been convicted of a violation of the AML Laws or been the subject of a final enforcement action relating to the AML Laws.
- (c) Borrower has not received any notice that it is the subject of any pending proceedings for any violation of the AML Laws and to the best of Borrower's knowledge it is not the subject of any pending proceedings for any violation of the AML Laws.
- (d) To the best of Borrower's knowledge after due inquiry and investigation no Borrower Principal nor Non-U.S. Equity Holder is the subject of any pending proceedings for any violation of the AML Laws.

Notwithstanding the foregoing, Lender acknowledges and agrees that if any entity which owns a direct or indirect interest in Borrower is a Public Company, then unless such Public Company exercises control over the purchase and sale of its publicly traded equity securities to a particular investor (other than as a placement agent), the representations set forth in Sections 5.59(b) and (d) will not be deemed to apply to the direct or indirect ownership in such Public Company.

5.60 Internal Controls. Borrower has in place and to the best of Borrower's knowledge after due inquiry and investigation, Borrower has determined that each Borrower Principal has in place, practices and procedures for the admission of investors which are designed to prevent the admission of:

- (a) Any Non-U.S. Equity Holder, or any investor with a 25% or more ownership interest in the aggregate in Borrower (whether directly or indirectly), that is in violation of any criminal or civil law or regulation intended to prevent money laundering or the funding of terrorist or illegal drug trafficking activities. Notwithstanding the foregoing, Lender acknowledges and agrees that if Borrower or any Borrower Principal is a Public Company, unless such Borrower or Borrower Principal exercises control over the purchase and sale of its publicly traded equity securities to a particular investor (other than as a placement agent), Borrower or such Borrower Principal will not be deemed to make this representation with respect to direct or indirect ownership in such Public Company.
- (b) Any Person that will have a 25% or more ownership interest in the aggregate in Borrower (whether directly or indirectly) that is on the Prohibited Parties Lists.
- (c) Any Non-U.S. Equity Holder that is on the OFAC Lists.

5.61 Crowdfunding. Except as has been disclosed in writing to and approved in writing by Lender, there has been no direct or indirect interest in Borrower marketed or sold to investors through any form of Crowdfunding which constitutes either of the following:

- (a) A Controlling Interest.

(b) An interest which may assume Control of Borrower under any terms of either Borrower's organizational documents, or the organizational documents of any entity in Borrower's ownership structure, regardless of whether the change in Control is the subject of a Permitted Transfer or a Conditionally Permitted Transfer.

5.62 Through 5.70 are Reserved.

ARTICLE VI BORROWER COVENANTS.

6.01 Compliance with Laws. Borrower will comply with all laws, ordinances, rules, regulations and requirements of any Governmental Authority having jurisdiction over the Mortgaged Property and all licenses and permits and all recorded covenants and agreements relating to or affecting the Mortgaged Property, including all laws, ordinances, regulations, requirements and covenants pertaining to health and safety, construction of improvements on the Mortgaged Property, Repairs, Capital Replacements, fair housing, disability accommodation, zoning and land use, applicable building codes, special use permits and environmental regulations, Leases and the maintenance and disposition of tenant security deposits. Borrower will take appropriate measures to prevent, and will not engage in or knowingly permit, any illegal activities at the Mortgaged Property, including those that could endanger tenants or visitors, result in damage to the Mortgaged Property, result in forfeiture of the Mortgaged Property, or otherwise materially impair the Lien created by the Security Instrument or Lender's interest in the Mortgaged Property. Borrower will at all times maintain records sufficient to demonstrate compliance with the provisions of this Section 6.01.

6.02 Compliance with Organizational Documents. Borrower will at all times comply with all laws, regulations and requirements of any Governmental Authority relating to Borrower's formation, continued existence and good standing in its state of formation and, if different, in the Property Jurisdiction. Borrower will at all times comply with its organizational documents, including its partnership agreement (if Borrower is a partnership), its by-laws (if Borrower is a corporation or housing cooperative corporation or association) or its operating agreement (if Borrower is a limited liability company or tenancy-in-common). If Borrower is a housing cooperative corporation or association, Borrower will at all times maintain its status as a "cooperative housing corporation" as such term is defined in Section 216(b) of the Internal Revenue Code of 1986, as amended, or any successor statute thereto.

6.03 Use of Mortgaged Property.

- (a) Unless required by applicable law, without the prior consent of Lender, Borrower will not take any of the following actions:
 - (i) Allow changes in the use for which all or any part of the Mortgaged Property is being used at the time this Loan Agreement is executed.
 - (ii) Convert any individual dwelling units or common areas to commercial use.

- (iii) Initiate a change in the zoning classification of the Mortgaged Property or acquiesce to a change in the zoning classification of the Mortgaged Property.
 - (iv) Establish any condominium or cooperative regime with respect to the Mortgaged Property beyond any which may be in existence on the date of this Loan Agreement.
 - (v) Combine all or any part of the Mortgaged Property with all or any part of a tax parcel which is not part of the Mortgaged Property.
 - (vi) Subdivide or otherwise split any tax parcel constituting all or any part of the Mortgaged Property.
 - (vii) Add to or change any location at which any of the Mortgaged Property is stored, held or located unless Borrower (A) gives Notice to Lender within 30 days after the occurrence of such addition or change, (B) executes and delivers to Lender any modifications of or supplements to this Loan Agreement that Lender may require, and (C) authorizes the filing of any financing statement which may be filed in connection with this Loan Agreement, as Lender may require.
 - (viii) Convert, in whole or in part, any non-residential income producing units to non-income producing units.
- (b) Reserved.
 - (c) Notwithstanding anything contained in this Section 6.03 to the contrary, if Borrower is a housing cooperative corporation or association, Lender acknowledges and consents to Borrower's use of the Mortgaged Property as a housing cooperative.

6.04 Non-Residential Leases.

- (a) Prohibited New Non-Residential Leases or Modified Non-Residential Leases. Except as set forth in Section 6.04(b), Borrower will not enter into any New Non-Residential Lease, enter into any Modified Non-Residential Lease or terminate any Non-Residential Lease (including any Non-Residential Lease in existence on the date of this Loan Agreement) without the prior consent of Lender.
- (b) New Non-Residential Leases or Modified Non-Residential Leases for which Lender's Consent is Not Required. Lender's consent will not be required for Borrower to enter into a Modified Non-Residential Lease or a New Non-Residential Lease if the Modified Non-Residential Lease or New Non-Residential Lease satisfies each of the following requirements:
 - (i) The tenant under the New Non-Residential Lease or Modified Non-Residential Lease is not an Affiliate of Borrower or any Guarantor.

- (ii) The terms of the New Non-Residential Lease or Modified Non-Residential Lease are at least as favorable to Borrower as those customary in the applicable market at the time Borrower enters into the New Non-Residential Lease or Modified Non-Residential Lease.
- (iii) The Rents paid to Borrower pursuant to the New Non-Residential Lease or Modified Non-Residential Lease are not less than 90% of the rents paid to Borrower pursuant to the Non-Residential Lease, if any, for that portion of the Mortgaged Property that was in effect prior to the New Non-Residential Lease or Modified Non-Residential Lease.
- (iv) The term of the New Non-Residential Lease or Modified Non-Residential Lease, including any option to extend, is 10 years or less.
- (v) Any New Non-Residential Lease must provide that the space may not be used or operated, in whole or in part, for any of the following:
 - (A) The operation of a so-called "head shop" or other business devoted to the sale of articles or merchandise normally used or associated with illegal or unlawful activities such as, but not limited to, the sale of paraphernalia used in connection with marijuana or controlled drugs or substances.
 - (B) A gun shop, shooting gallery or firearms range.
 - (C) A so-called massage parlor or any business which sells, rents or permits the viewing of so-called "adult" or pornographic materials such as, but not limited to, adult magazines, books, movies, photographs, sexual aids, sexual articles and sex paraphernalia.
 - (D) Any use involving the sale or distribution of any flammable liquids, gases or other Hazardous Materials.
 - (E) An off-track betting parlor or arcade.
 - (F) A liquor store or other establishment whose primary business is the sale of alcoholic beverages for off-site consumption.
 - (G) A burlesque or strip club.
 - (H) Any illegal activity.
- (vi) The aggregate of the income derived from the space leased pursuant to the New Non-Residential Lease accounts for less than 20% of the gross income of the Mortgaged Property on the date that Borrower enters into the New Non-Residential Lease.

- (vii) Such New Non-Residential Lease is not an oil or gas lease, pipeline agreement or other instrument related to the production or sale of oil or natural gas.
- (viii) Any New Non-Residential Lease must satisfy the condition of Section 6.04(d).
- (c) Executed Copies of Non-Residential Leases. Borrower will, without request by Lender, deliver a fully executed copy of each Non-Residential Lease to Lender promptly after such Non-Residential Lease is signed.
- (d) Subordination and Attornment Requirements. All Non-Residential Leases entered into after the date of this Loan Agreement will specifically include the following provisions:
 - (i) The tenant will attorn to Lender and any purchaser at a foreclosure sale, such attornment to be self-executing and effective upon acquisition of title to the Mortgaged Property by any purchaser at a foreclosure sale or by Lender in any manner.
 - (ii) The tenant agrees to execute such further evidences of attornment as Lender or any purchaser at a foreclosure sale may from time to time request.
 - (iii) The tenant will, upon receipt of a written request from Lender following the occurrence of and during the continuance of an Event of Default, pay all Rents payable under the Lease to Lender.
 - (iv) Reserved.
 - (v) Reserved.

6.05 Prepayment of Rents. Borrower will not receive or accept Rent under any Lease (whether a residential Lease or a Non-Residential Lease) for more than 2 months in advance.

6.06 Inspection.

- (a) Right of Entry. Subject to the rights of tenants under Leases, Borrower will permit Lender, its agents, representatives and designees and any interested Governmental Authority to make or cause to be made entries upon and inspections of the Mortgaged Property to inspect, among other things: (i) Repairs, (ii) Capital Replacements, (iii) Restorations, (iv) Property Improvement Alterations, and (v) any other Improvements, both in process and upon completion (including environmental inspections and tests performed by professional inspection engineers) during normal business hours, or at any other reasonable time, upon reasonable Notice to Borrower if the inspection is to include occupied residential units (which Notice need not be in writing). During normal business hours, or at any other reasonable time, Borrower will also permit Lender to examine all books

and records and contracts and bills pertaining to the foregoing. Notice to Borrower will not be required in the case of an emergency, as determined in Lender's Discretion, or when an Event of Default has occurred and is continuing.

- (b) Inspection of Mold. If Lender determines that Mold has or may have developed as a result of a water intrusion event or leak, Lender, at Lender's Discretion, may require that a professional inspector inspect the Mortgaged Property to confirm whether Mold has developed and, if so, thereafter as frequently as Lender determines is necessary until any issue with Mold and its cause(s) are resolved to Lender's satisfaction. Such inspection will be limited to a visual and olfactory inspection of the area that has experienced the Mold, water intrusion event or leak. Borrower will be responsible for the cost of each such professional inspection and any remediation deemed to be necessary as a result of the professional inspection. After any issue with Mold is remedied to Lender's satisfaction, Lender will not require a professional inspection any more frequently than once every 3 years unless Lender otherwise becomes aware of Mold as a result of a subsequent water intrusion event or leak.
- (c) Certification in Lieu of Inspection. If Lender or Loan Servicer determines not to conduct an annual inspection of the Mortgaged Property, and in lieu thereof Lender requests a certification, Borrower will provide to Lender a factually correct certification, each year that the annual inspection is waived, to the following effect:

Borrower has not received any written complaint, notice, letter or other written communication from any tenant, Property Manager or governmental authority regarding mold, fungus, microbial contamination or pathogenic organisms ("Mold") or any activity, condition, event or omission that causes or facilitates the growth of Mold on or in any part of the Mortgaged Property or, if Borrower has received any such written complaint, notice, letter or other written communication, that Borrower has investigated and determined that no Mold activity, condition or event exists or alternatively has fully and properly remediated such activity, condition, event or omission in compliance with the Moisture Management Plan for the Mortgaged Property.

If Borrower is unwilling or unable to provide such certification, Lender may require a professional inspection of the Mortgaged Property at Borrower's expense.

6.07 Books and Records; Financial Reporting.

- (a) Delivery of Books and Records.
- (i) Borrower will keep and maintain at all times at the Mortgaged Property, Borrower's main business office, or the Property Manager's office, and upon Lender's request will make available at the Mortgaged Property (or, at Borrower's option, at the Property Manager's office), complete and

accurate books of account and records (including copies of supporting bills and invoices) adequate to reflect correctly the operation of the Mortgaged Property and copies of all written contracts, Leases, and other instruments which affect the Mortgaged Property. The books, records, contracts, Leases and other instruments will be subject to examination and inspection by Lender at any reasonable time ("**Books and Records**").

(ii) Borrower will keep the Books and Records in accordance with one of the following accounting methods, consistently applied, and Borrower will promptly provide Lender Notice of any change in Borrower's accounting methods:

(A) Generally accepted accounting principles (GAAP).

(B) Tax method of accounting, if under the tax method of accounting, the accrual basis is used for interest expense, real estate taxes and insurance expense, and the cash basis is used for all other items, including income, prepaid rent, utilities and payroll expense. Financial statements may exclude depreciation and amortization.

(C) Such other method that is acceptable to Lender.

(b) Delivery of Statement of Income and Expenses; Rent Schedule and Other Statements. Borrower will furnish to Lender each of the following:

(i) Within 25 days after the end of each calendar quarter prior to Securitization and within 35 days after each calendar quarter after Securitization, each of the following:

(A) A Rent Schedule dated no earlier than the date that is 5 days prior to the end of such quarter.

(B) A statement of income and expenses for Borrower that is either of the following:

(1) For the 12-month period ending on the last day of such quarter.

(2) If at the end of such quarter Borrower or any Affiliate of Borrower has owned the Mortgaged Property for less than 12 months, for the period commencing with the acquisition of the Mortgaged Property by Borrower or its Affiliate, and ending on the last day of such quarter.

(C) When requested by Lender, a balance sheet showing all assets and liabilities of Borrower as of the end of that fiscal quarter.

- (ii) Within 90 days after the end of each fiscal year of Borrower, all of the following:
 - (A) An annual statement of income and expenses for Borrower for that fiscal year.
 - (B) A balance sheet showing all assets and liabilities of Borrower as of the end of that fiscal year.
 - (C) An accounting of all security deposits held pursuant to all Leases, including the name of the institution (if any) and the names and identification numbers of the accounts (if any) in which such security deposits are held and the name of the person to contact at such financial institution, along with any authority or release necessary for Lender to access information regarding such accounts.
 - (iii) Within 30 days after the date of filing, copies of all tax returns filed by Borrower.
- (c) Additional Reporting Requirements Upon Request. Borrower will furnish to Lender each of the following:
- (i) Upon Lender's request, in Lender's sole and absolute discretion prior to a Securitization, and thereafter upon Lender's request in Lender's Discretion, a monthly Rent Schedule and a monthly statement of income and expenses for Borrower, in each case within 25 days after the end of each month.
 - (ii) Upon Lender's request in Lender's sole and absolute discretion prior to a Securitization, and thereafter upon Lender's request in Lender's Discretion, within 10 days after such a request from Lender, an organizational chart that identifies all of the following:
 - (A) Persons that directly or indirectly Control Borrower and any Designated Entity for Transfers and the interest held by each.
 - (B) Persons with a collective equity interest (whether direct or indirect) of 25% or more in Borrower if not already identified pursuant to Section 6.07(c)(ii)(A).
 - (C) All Non-U.S. Equity Holders.

If any Designated Entity for Transfers is a Public Company, the organizational chart will not be required to show the ownership of such Public Company, unless such Public Company exercises control over the purchase and sale of its publicly traded equity securities to a particular Person or shareholder.

- (iii) Upon Lender's request in Lender's Discretion, such other financial information or property management information (including information on tenants under Leases to the extent such information is available to

Borrower, copies of bank account statements from financial institutions where funds owned or controlled by Borrower are maintained, and an accounting of security deposits) as may be required by Lender from time to time, in each case within 30 days after such request.

- (iv) Upon Lender's request in Lender's Discretion, a monthly property management report for the Mortgaged Property, showing the number of inquiries made and rental applications received from tenants or prospective tenants and deposits received from tenants and any other information requested by Lender within 30 days after such request. However, Lender will not require the foregoing more frequently than quarterly except when there has been an Event of Default and such Event of Default is continuing, in which case Lender may require Borrower to furnish the foregoing more frequently.
- (d) Form of Statements; Audited Financials. A natural person having authority to bind Borrower (or the SPE Equity Owner or Guarantor, as applicable), acting in his or her capacity as a manager, general partner or an officer of Borrower, SPE Equity Owner, or Guarantor and not in his or her individual capacity, will certify each of the statements, schedules and reports required by Sections 6.07(b), 6.07(c) and 6.07(f) to be complete and accurate. Each of the statements, schedules and reports required by Sections 6.07(b), 6.07(c) and 6.07(f) will be in such form and contain such detail as Lender may reasonably require. Lender also may require that any of the statements, schedules or reports listed in Sections 6.07(b), 6.07(c) and 6.07(f) be audited at Borrower's expense by independent certified public accountants acceptable to Lender, at any time when an Event of Default has occurred and is continuing or at any time that Lender, in its reasonable judgment, determines that audited financial statements are required for an accurate assessment of the financial condition of Borrower or of the Mortgaged Property.
- (e) Failure to Timely Provide Financial Statements or Additional Reporting. If Borrower fails to provide in a timely manner the statements, schedules and reports required by Sections 6.07(b), 6.07(c) and 6.07(f), Lender will give Notice to Borrower specifying the statements, schedules and reports required by Sections 6.07(b), 6.07(c) and 6.07(f) that Borrower has failed to provide. If Borrower has not provided the required statements, schedules and reports within 10 Business Days following such Notice, then (i) Borrower will pay a late fee of \$500 for each late statement, schedule or report, plus an additional \$500 per month that any such statement, schedule or report continues to be late, and (ii) Lender will have the right to have Borrower's books and records audited, at Borrower's expense, by independent certified public accountants selected by Lender in order to obtain such statements, schedules and reports, and all related costs and expenses of Lender will become immediately due and payable and will become an additional part of the Indebtedness as provided in Section 9.02. Notice to Borrower of Lender's exercise of its rights to require an audit will not be required in the case of an emergency, as determined in Lender's Discretion, or when an Event of Default has occurred and is continuing.

- (f) Delivery of Guarantor and SPE Equity Owner Financial Statements. Borrower will cause Guarantor and/or SPE Equity Owner to deliver each of the following to Lender within 10 Business Days following Lender's request:
- (i) Guarantor's or SPE Equity Owner's (as applicable) balance sheet and profit and loss statement (or if such party is a natural person, such party's personal financial statements) as of the end of (A) the quarter that ended at least 30 days prior to the due date of the requested items, and/or (B) the fiscal year that ended at least 90 days prior to the due date of the requested items.
 - (ii) Other Guarantor or SPE Equity Owner (as applicable) financial statements as Lender may reasonably require.
 - (iii) Written updates on the status of all litigation proceedings that Guarantor or SPE Equity Owner (as applicable) disclosed or should have disclosed to Lender as of the Closing Date.
 - (iv) If an Event of Default has occurred and is continuing, copies of Guarantor's or SPE Equity Owner's (as applicable) most recent filed state and federal tax returns, including any current tax return extensions.
- (g) Reporting Upon Event of Default. If an Event of Default has occurred and is continuing, Borrower will deliver to Lender upon written demand all books and records relating to the Mortgaged Property or its operation.
- (h) Credit Reports. Borrower authorizes Lender to obtain a credit report on Borrower at any time.
- (i) through (m) are Reserved.

6.08 Taxes; Operating Expenses; Ground Rents.

- (a) Payment of Taxes and Ground Rent. Subject to the provisions of Sections 6.08(c) and (d), Borrower will pay or cause to be paid (i) all Taxes when due and before the addition of any interest, fine, penalty or cost for nonpayment, and (ii) if Borrower's interest in the Mortgaged Property is as a Ground Lessee, then the monthly or other periodic installments of Ground Rent before the last date upon which each such installment may be made without penalty or interest charges being added.
- (b) Payment of Operating Expenses. Subject to the provisions of Section 6.08(c), Borrower will (i) pay the expenses of operating, managing, maintaining and repairing the Mortgaged Property (including utilities, Repairs and Capital Replacements) before the last date upon which each such payment may be made without any penalty or interest charge being added, and (ii) pay Insurance premiums prior to the expiration date of each policy of Insurance, unless applicable law specifies some lesser period.

- (c) Payment of Impositions and Reserve Funds. If Lender is collecting Imposition Reserve Deposits pursuant to Article IV, then so long as no Event of Default exists, Borrower will not be obligated to pay any Imposition for which Imposition Reserve Deposits are being collected, whether Taxes, Insurance premiums, Ground Rent (if applicable) or any other individual Impositions, but only to the extent that sufficient Imposition Reserve Deposits are held by Lender for the purpose of paying that specific Imposition and Borrower has timely delivered to Lender any bills or premium notices that it has received with respect to that specific Imposition (other than Ground Rent). Lender will have no liability to Borrower for failing to pay any Impositions to the extent that: (i) any Event of Default has occurred and is continuing, (ii) insufficient Imposition Reserve Deposits are held by Lender at the time an Imposition becomes due and payable, or (iii) Borrower has failed to provide Lender with bills and premium notices as provided in this Section 6.08(c).
- (d) Right to Contest. Borrower, at its own expense, may contest by appropriate legal proceedings, conducted diligently and in good faith, the amount or validity of any Imposition other than Insurance premiums and Ground Rent (if applicable), if: (i) Borrower notifies Lender of the commencement or expected commencement of such proceedings, (ii) the Mortgaged Property is not in danger of being sold or forfeited, (iii) if Borrower has not already paid the Imposition, Borrower deposits with Lender reserves sufficient to pay the contested Imposition, if requested by Lender, and (iv) Borrower furnishes whatever additional security is required in the proceedings or is reasonably requested by Lender, which may include the delivery to Lender of reserves established by Borrower to pay the contested Imposition.

6.09 Preservation, Management and Maintenance of Mortgaged Property.

- (a) Maintenance of Mortgaged Property; No Waste. Borrower will keep the Mortgaged Property in good repair, including the replacement of Personalty and Fixtures with items of equal or better function and quality. Borrower will not commit waste or permit impairment or deterioration of the Mortgaged Property.
- (b) Abandonment of Mortgaged Property. Borrower will not abandon the Mortgaged Property.
- (c) Preservation of Mortgaged Property.
- (i) Borrower will restore or repair promptly, in a good and workmanlike manner, any damaged part of the Mortgaged Property to the equivalent of its original condition, or such other condition as Lender may approve in writing, whether or not Insurance proceeds or Condemnation awards are available to cover any costs of such Restoration or repair; provided, however, that Borrower will not be obligated to perform such Restoration or repair if (A) no Event of Default has occurred and is continuing, and (B) Lender has elected to apply any available Insurance proceeds and/or Condemnation awards to the payment of Indebtedness pursuant to Sections 6.10(j), 6.10(k), 6.10(l), 6.11(b), or 6.11(d).

- (ii) Borrower will give Notice to Lender of and, unless otherwise directed in writing by Lender, will appear in and defend any action or proceeding purporting to affect the Mortgaged Property, Lender's security or Lender's rights under this Loan Agreement.

- (d) Property Management. Borrower will provide for professional management of the Mortgaged Property by the Property Manager at all times under a property management agreement approved by Lender in writing. Borrower will not surrender, terminate, cancel, modify, renew or extend its property management agreement, or enter into any other agreement relating to the management or operation of the Mortgaged Property with Property Manager or any other Person, or consent to (i) the assignment by the Property Manager of its interest under such property management agreement or (ii) the transfer of a controlling interest in the Property Manager if the Property Manager is an Affiliate of Borrower, in each case without the consent of Lender, which consent will not be unreasonably withheld.
 - (i) If at any time Lender consents to the appointment of a new Property Manager, such new Property Manager and Borrower will, as a condition of Lender's consent, execute an Assignment of Management Agreement in a form acceptable to Lender.
 - (ii) If any such replacement Property Manager is an Affiliate of Borrower, and if a nonconsolidation opinion was delivered on the Closing Date, Borrower will deliver to Lender an updated nonconsolidation opinion in form and substance satisfactory to Lender with regard to nonconsolidation.
 - (iii) Reserved.

- (e) Alteration of Mortgaged Property. Borrower will not (and will not permit any tenant or other Person to) remove, demolish or alter the Mortgaged Property or any part of the Mortgaged Property, including any removal, demolition or alteration occurring in connection with a rehabilitation of all or part of the Mortgaged Property, except that each of the following is permitted:
 - (i) Repairs or Capital Replacements in accordance with the terms and conditions of this Loan Agreement.
 - (ii) Any repairs or replacements made in connection with the replacement of tangible Personalty.
 - (iii) If Borrower is a cooperative housing corporation or association, repairs or replacements to the extent permitted with respect to individual dwelling units under the form of a proprietary lease or occupancy agreement.
 - (iv) Any repairs or replacements in connection with making an individual unit ready for a new occupant or pursuant to Sections 6.09(a) and (c).

(v) Property Improvement Alterations, provided that each of the following conditions is satisfied:

(A) At least 30 days prior to the commencement of any Property Improvement Alterations, Borrower must submit to Lender a Property Improvement Notice. The Property Improvement Notice must include all of the following information:

- (1) The expected start date and completion date of the Property Improvement Alterations.
- (2) A description of the anticipated Property Improvement Alterations to be made.
- (3) The projected budget of the Property Improvement Alterations and the source of funding.

If any changes to Property Improvement Alterations as described in the Property Improvement Notice are made that extend beyond the overall scope and intent of the Property Improvement Alterations set forth in the Property Improvement Notice (e.g., renovations changed to renovate common areas but Property Improvement Notice only described renovations to the residential unit bathrooms), then Borrower must submit a new Property Improvement Notice to Lender in accordance with this Section 6.09(e)(v)(A).

(B) The Property Improvement Alterations may not be commenced within 12 months prior to the Maturity Date without prior consent of Lender and must be completed at least 6 months prior to the Maturity Date.

(C) Neither the performance nor completion of the Property Improvement Alterations may result in any of the following:

- (1) An adverse effect on any Major Building System.
- (2) A change in residential unit configurations on a permanent basis.
- (3) An increase or decrease in the total number of residential units.
- (4) The demolition of any existing Improvements.
- (5) A permanent obstruction of tenants' access to units or a temporary obstruction of tenants' access to units without a reasonable alternative access provided during the period of renovation which causes the obstruction.

(D) Reserved.

(E) The Leases used to calculate Minimum Occupancy for use in Section 6.09(e)(v)(I) must meet all of the following conditions:

- (1) The Leases are with tenants that are not Affiliates of Borrower or Guarantor (except as otherwise expressly agreed by Lender in writing).
- (2) The Leases are on arms' length terms and conditions.
- (3) The Leases otherwise satisfy the requirements of the Loan Documents.

(F) The Property Improvement Alterations must be completed in accordance with Section 6.14 and any reference to Repairs in Sections 6.06 and 6.14 will be deemed to include Property Improvement Alterations.

(G) Upon completion of the applicable Property Improvement Alterations, Borrower must provide all of the following to Lender:

- (1) Borrower's Certificate of Property Improvement Alterations Completion, in the form attached as Exhibit O ("**Certificate of Completion**").
- (2) Any other certificates or approval, acceptance or compliance required by Lender, including certificates of occupancy, from any Governmental Authority having jurisdiction over the Mortgaged Property and the Property Improvement Alterations and professional engineers' certifications.

(H) Borrower must deliver to Lender within 10 days of Lender's request a written status update on the Property Improvement Alterations.

(I) While Property Improvement Alterations that result in individual residential units not being available for leasing are ongoing, if a Rent Schedule shows that the occupancy of the Mortgaged Property has decreased to less than the Minimum Occupancy, Borrower must take each of the following actions:

- (1) Complete all pending Property Improvement Alterations to such individual residential units in a timely manner until the Mortgaged Property satisfies the Minimum Occupancy requirement.
- (2) Suspend any additional Property Improvement Alterations which would cause residential units to be unavailable for leasing until the Mortgaged Property satisfies the Minimum Occupancy requirement.

(J) If Borrower has commenced Property Improvement Alterations on the Mortgaged Property, then Borrower will deliver to Lender, upon Lender's request, and in a timely manner, the Certificate of Completion together with such additional information as Lender may request.

(K) If on the date of this Loan Agreement the Loan amount is \$25,000,000 or more, or if the Mortgage is part of a crossed pool of Loans with an aggregate balance of \$25,000,000 or more, then at no time during the term of the Loan may any outstanding amounts expended by Borrower for services and/or materials in connection with Property Improvement Alterations that are then due and payable exceed 10% of the original principal loan amount.

(vi) Reserved.

(vii) Reserved.

(viii) Reserved.

(f) Establishment of MMP. If indicated in the Summary, Borrower will have or will establish and will adhere to the MMP. If Borrower is required to have an MMP, Borrower will keep all MMP documentation at the Mortgaged Property or at the Property Manager's office and available for review by Lender or the Loan Servicer during any annual assessment or other inspection of the Mortgaged Property that is required by Lender. At a minimum, the MMP must contain a provision for: (i) staff training, (ii) information to be provided to tenants, (iii) documentation of the plan, (iv) the appropriate protocol for incident response and remediation, and (v) routine, scheduled inspections of common space and unit interiors.

(g) No Reduction of Housing Cooperative Charges. If Borrower is a housing cooperative corporation or association, until the Indebtedness is paid in full, Borrower will not reduce the maintenance fees, charges or assessments payable by shareholders or residents under proprietary leases or occupancy agreements below a level which is sufficient to pay all expenses of Borrower, including all operating and other expenses for the Mortgaged Property and all payments due pursuant to the terms of the Note and any Loan Documents.

(h) through (l) are reserved.

(m) Mechanic's, Materialmen's and Judgment Liens. If a mechanic's, materialmen's or judgment Lien is filed against the Mortgaged Property, Borrower must cause the Lien to be released of record, bonded off, or otherwise remedied to Lender's satisfaction within 60 days after the date of creation of the Lien. However, if Borrower is diligently prosecuting such release or other remedy and advises Lender that such release or remedy cannot be consummated within such 60-day period, Borrower will have an additional period (not exceeding 120 days from the date of creation of the Lien or such earlier time as may be required by applicable law in which the lienor must act to enforce the Lien) within which to obtain such release of record or consummate such other remedy.

6.10 Insurance. At all times during the term of this Loan Agreement, Borrower will maintain at its sole cost and expense, for the mutual benefit of Borrower and Lender, all of the Insurance specified in this Section 6.10, as required by Lender and applicable law, and in such amounts and with such maximum deductibles as Lender may require, as those requirements may change:

- (a) Property Insurance. Borrower will keep the Improvements insured at all times against relevant physical hazards that may cause damage to the Mortgaged Property as Lender may require (“**Property Insurance**”). Required Property Insurance coverage may include any or all of the following:
 - (i) All Risks of Physical Loss. Insurance against loss or damage from fire, wind, hail, and other related perils within the scope of a “Causes of Loss – Special Form” or “All Risk” policy, in an amount not less than the Replacement Cost of the Mortgaged Property.
 - (ii) Ordinance and Law. If any part of the Mortgaged Property is legal non-conforming under current building, zoning or land use laws or ordinances, then “Ordinance and Law Coverage” in the amount required by Lender.
 - (iii) Flood. If any of the Improvements are located in an area identified by the Federal Emergency Management Agency (or any successor to that agency) as a “Special Flood Hazard Area,” flood Insurance in the amount required by Lender.
 - (iv) Windstorm. If windstorm and/or windstorm related perils and/or “named storm” (collectively, “**Windstorm Coverage**”), are excluded from the “Causes of Loss – Special Form” policy required under Section 6.10(a)(i), then separate coverage for such risks, either through an endorsement or a separate policy. Windstorm Coverage will be written in an amount not less than the Replacement Cost of the Mortgaged Property.
 - (v) Boiler and Machinery/Equipment Breakdown. If the Mortgaged Property contains a central heating, ventilation and cooling system (“**HVAC System**”) where steam boilers and/or other pressurized systems are in operation and are regulated by the Property Jurisdiction, Insurance providing coverage in the amount required by Lender.
 - (vi) Builder’s Risk. During any period of construction or Restoration, builder’s risk Insurance (including fire and other perils within the scope of a policy known as “Causes of Loss – Special Form” or “All Risk” policy) in an amount not less than the sum of the related contractual arrangements.
 - (vii) Other. Insurance for other physical perils applicable to the Mortgaged Property as may be required by Lender including earthquake, sinkhole, mine subsidence, avalanche, mudslides, and volcanic eruption. If Lender reasonably requires any updated reports or other documentation to determine whether additional Insurance is necessary or prudent, Borrower

will pay for the updated reports or other documentation at its sole cost and expense.

- (viii) Reserved.
- (ix) Reserved.
- (x) Reserved.
- (b) Business Income/Rental Value. Business income/rental value Insurance for all relevant perils to be covered in the amount required by Lender, but in no case less than the effective gross income attributable to the Mortgaged Property for the preceding 12 months, as determined by Lender in Lender's Discretion.
- (c) Commercial General Liability Insurance. Commercial general liability Insurance against legal liability claims for personal and bodily injury, property damage and contractual liability in such amounts and with such maximum deductibles as Lender may require, but not less than \$1,000,000 per occurrence and \$2,000,000 in the general aggregate on a per-location basis, plus excess and/or umbrella liability coverage in such amounts as Lender may require.
- (d) Terrorism Insurance. Insurance required under Section 6.10(a), Section 6.10(b), and Section 6.10(c) will provide coverage for acts of terrorism. Terrorism coverage may be provided through one or more separate policies, which will be on terms (including amounts) consistent with those required under Section 6.10(a)(i) and (ii) and Section 6.10(b). If Insurance against acts of terrorism is not available at commercially reasonable rates and if the related hazards are not at the time commonly insured against for properties similar to the Mortgaged Property and located in or around the region in which the Mortgaged Property is located, then Lender may opt to temporarily suspend, cap or otherwise limit the requirement to have such terrorism insurance for a period not to exceed one year, unless such suspension or cap is renewed by Lender for additional one year increments.
- (e) Payment of Premiums. All Property Insurance premiums and premiums for other Insurance required under this Section 6.10 will be paid in the manner provided in Article IV, unless Lender has designated in writing another method of payment.
- (f) Policy Requirements. The following requirements apply with respect to all Insurance required by this Section 6.10:
 - (i) All Insurance policies will be in a form approved by Lender.
 - (ii) All Insurance policies will be issued by Insurance companies authorized to do business in the Property Jurisdiction and/or acting as eligible surplus insurers in the Property Jurisdiction, which have a general policyholder's rating satisfactory to Lender.

- (iii) All Property Insurance policies will contain a standard mortgagee or mortgage holder's clause and a loss payable clause, in favor of, and in a form approved by, Lender.
 - (iv) If any Insurance policy contains a coinsurance clause, the coinsurance clause will be offset by an agreed amount endorsement in an amount not less than the Replacement Cost.
 - (v) All commercial general liability and excess/umbrella liability policies will name Lender, its successors and/or assigns, as additional insured.
 - (vi) Professional liability policies will not include Lender, its successors and/or assigns, as additional insured.
 - (vii) All Insurance policies (with the exception of commercial general liability Insurance policies) will provide that the insurer will notify Lender in writing of cancellation of policies at least 10 days before the cancellation of the policy by the insurer for nonpayment of the premium or nonrenewal and at least 30 days before cancellation by the insurer for any other reason.
- (g) Evidence of Insurance; Insurance Policy Renewals. Borrower will deliver to Lender a legible copy of each Insurance policy, and Borrower will promptly deliver to Lender a copy of all renewal and other notices received by Borrower with respect to the policies. Borrower will ensure that the Mortgaged Property is continuously covered by the required Insurance. Prior to the expiration date of each Insurance policy, Borrower will deliver to Lender evidence acceptable to Lender in Lender's Discretion that each policy has been renewed. If the evidence of a renewal does not include a legible copy of the renewal policy, Borrower will deliver a legible copy of such renewal policy no later than the earlier of the following:
- (i) 60 days after the expiration date of the original policy.
 - (ii) The date of any Notice of an insured loss given to Lender under Section 6.10(i).
- (h) Compliance With Insurance Requirements. Borrower will comply with all Insurance requirements and will not permit any condition to exist on the Mortgaged Property that would invalidate any part of any Insurance coverage required under this Loan Agreement.
- (i) Obligations Upon Casualty; Proof of Loss.
- (i) If an insured loss occurs, then Borrower will give immediate written notice to the Insurance carrier and to Lender.
 - (ii) Borrower authorizes and appoints Lender as attorney in fact for Borrower to make proof of loss, to adjust and compromise any claims under policies of Property Insurance, to appear in and prosecute any action arising from

such Property Insurance policies, to collect and receive the proceeds of Property Insurance, to hold the proceeds of Property Insurance, and to deduct from such proceeds Lender's expenses incurred in the collection of such proceeds. This power of attorney is coupled with an interest and therefore is irrevocable. However, nothing contained in this Section 6.10 will require Lender to incur any expense or take any action.

(j) Lender's Options Following a Casualty. Subject to Sections 6.10(k) and (l), Lender may, at Lender's option, take one of the following actions:

- (i) Require a "repair or replacement" settlement, in which case the proceeds will be used to reimburse Borrower for the cost of restoring and repairing the Mortgaged Property to the equivalent of its original condition or to a condition approved by Lender ("**Restoration**"). If Lender determines to require a repair or replacement settlement and to apply Insurance proceeds to Restoration, Lender will apply the proceeds in accordance with Lender's then-current policies relating to the Restoration of casualty damage on similar multifamily properties. If Lender, in Lender's Discretion, retains a professional inspection engineer or other qualified third-party to inspect any Restoration items, Lender may charge Borrower an amount sufficient to pay all reasonable costs and expenses charged by such third-party inspector.
- (ii) Require an "actual cash value" settlement in which case the proceeds may be applied to the payment of the Indebtedness, whether or not then due.

(k) Borrower's Options Following a Casualty. Subject to Section 6.10(l), Borrower may take the following actions:

- (i) If a casualty results in damage to the Mortgaged Property for which the cost of Repairs will be less than the Borrower Proof of Loss Threshold, Borrower will have the sole right to make proof of loss, adjust and compromise the claim and collect and receive any proceeds directly without the approval or prior consent of Lender so long as the Insurance proceeds are used solely for the Restoration of the Mortgaged Property.
- (ii) If a casualty results in damage to the Mortgaged Property for which the cost of Repairs will be more than the Borrower Proof of Loss Threshold, but less than the Borrower Proof of Loss Maximum, Borrower is authorized to make proof of loss and adjust and compromise the claim without the prior consent of Lender, and Lender will hold the applicable Insurance proceeds to be used to reimburse Borrower for the cost of Restoration of the Mortgaged Property and will not apply such proceeds to the payment of the Indebtedness.
- (iii) If a casualty results in damage to the Mortgaged Property for which the cost of Repairs will be more than the Borrower Proof of Loss Maximum, Borrower must obtain the consent of Lender prior to making any proof of

loss or adjusting or compromising the claim, and Lender will hold the applicable Insurance proceeds to be used to reimburse Borrower for the cost of Restoration of the Mortgaged Property and will not apply such proceeds to the payment of the Indebtedness.

- (l) Lender's Right to Apply Insurance Proceeds to Indebtedness. Lender will have the right to apply Insurance proceeds to the payment of the Indebtedness if Lender determines, in Lender's Discretion, that any of the following conditions exist:
- (i) An Event of Default (or any event, which, with the giving of Notice or the passage of time, or both, would constitute an Event of Default) has occurred and is continuing.
 - (ii) There will not be sufficient funds from Insurance proceeds, anticipated contributions of Borrower of its own funds or other sources acceptable to Lender to complete the Restoration.
 - (iii) The rental income from the Mortgaged Property after completion of the Restoration will not be sufficient to meet all operating costs and other expenses, deposits to Reserve Funds and Loan repayment obligations relating to the Mortgaged Property.
 - (iv) The Restoration will be completed less than (A) 6 months prior to the Maturity Date if re-leasing will be completed prior to the Maturity Date, or (B) 12 months prior to the Maturity Date if re-leasing will not be completed prior to the Maturity Date.
 - (v) The Restoration will not be completed within one year after the date of the loss or casualty.
 - (vi) The casualty involved an actual or constructive loss of more than 30% of the fair market value of the Mortgaged Property, and rendered untenable more than 30% of the residential units of the Mortgaged Property.
 - (vii) After completion of the Restoration the fair market value of the Mortgaged Property is expected to be less than the fair market value of the Mortgaged Property immediately prior to such casualty (assuming the affected portion of the Mortgaged Property is re-let within a reasonable period after the date of such casualty).
 - (viii) Leases covering less than 35% of the residential units of the Mortgaged Property will remain in full force and effect during and after the completion of Restoration.
- (m) Lender's Succession to Insurance Policies. If the Mortgaged Property is sold at a foreclosure sale or Lender acquires title to the Mortgaged Property, Lender will automatically succeed to all rights of Borrower in and to any Insurance policies and

unearned Insurance premiums and in and to the proceeds resulting from any damage to the Mortgaged Property prior to such sale or acquisition.

- (n) Payment of Installments After Application of Insurance Proceeds. Unless Lender otherwise agrees in writing, any application of any Insurance proceeds to the Indebtedness will not extend or postpone the due date of any monthly installments referred to in the Note, Article IV of this Loan Agreement or change the amount of such installments.
- (o) Assignment of Insurance Proceeds. Borrower agrees to execute such further evidence of assignment of any Insurance proceeds as Lender may require.
- (p) Borrower Acknowledgment of Lender's Right to Change Insurance Requirements. Borrower acknowledges and agrees that Lender's Insurance requirements may change from time to time throughout the term of the Indebtedness to include coverage for the kind of risks customarily insured against and in such minimum coverage amounts and maximum deductibles as are generally required by institutional lenders for properties comparable to the Mortgaged Property.

6.11 Condemnation.

- (a) Rights Generally. Borrower will promptly notify Lender in writing of any action or proceeding or notice relating to any proposed or actual condemnation or other taking, or conveyance in lieu thereof, of all or any part of the Mortgaged Property, whether direct or indirect ("**Condemnation**"). Borrower will appear in and prosecute or defend any action or proceeding relating to any Condemnation unless otherwise directed by Lender in writing. Borrower authorizes and appoints Lender as attorney in fact for Borrower to commence, appear in and prosecute, in Lender's or Borrower's name, any action or proceeding relating to any Condemnation and to settle or compromise any claim in connection with any Condemnation, after consultation with Borrower and consistent with commercially reasonable standards of a prudent lender. This power of attorney is coupled with an interest and therefore is irrevocable. However, nothing contained in this Section 6.11(a) will require Lender to incur any expense or take any action. Borrower transfers and assigns to Lender all right, title and interest of Borrower in and to any award or payment with respect to (i) any Condemnation, or any conveyance in lieu of Condemnation, and (ii) any damage to the Mortgaged Property caused by governmental action that does not result in a Condemnation.
- (b) Application of Award. Lender may hold such awards or proceeds and apply such awards or proceeds, after the deduction of Lender's expenses incurred in the collection of such amounts (including Attorneys' Fees and Costs) at Lender's option, to the Restoration or repair of the Mortgaged Property or to the payment of the Indebtedness, with the balance, if any, to Borrower. Unless Lender otherwise agrees in writing, any application of any awards or proceeds to the Indebtedness will not extend or postpone the due date of any monthly installments referred to in the Note or Article IV of this Loan Agreement, or change the amount of such

installments. Borrower agrees to execute such further evidence of assignment of any Condemnation awards or proceeds as Lender may require.

- (c) Borrower's Right to Condemnation Proceeds. Notwithstanding any provision to the contrary in this Section 6.11, but subject to Section 6.11(e), in the event of a partial Condemnation of the Mortgaged Property, as long as no Event of Default, or any event which, with the giving of Notice or the passage of time, or both, would constitute an Event of Default, has occurred and is continuing, in the event of a partial Condemnation resulting in proceeds or awards in the amount of less than \$100,000, Borrower will have the sole right to make proof of loss, adjust and compromise the claim and collect and receive any proceeds directly without the approval or prior consent of Lender so long as the proceeds or awards are used solely for the Restoration of the Mortgaged Property.
- (d) Right to Apply Condemnation Proceeds to Indebtedness. In the event of a partial Condemnation of the Mortgaged Property resulting in proceeds or awards in the amount of \$100,000 or more and subject to Section 6.11(e), Lender will have the right to apply Condemnation proceeds to the payment of the Indebtedness if Lender determines, in Lender's Discretion, that any of the following conditions exist:
- (i) An Event of Default (or any event, which, with the giving of Notice or the passage of time, or both, would constitute an Event of Default) has occurred and is continuing.
 - (ii) There will not be sufficient funds from Condemnation proceeds, anticipated contributions of Borrower of its own funds or other sources acceptable to Lender to complete the Restoration.
 - (iii) The rental income from the Mortgaged Property after completion of the Restoration will not be sufficient to meet all operating costs and other expenses, deposits to Reserve Funds and Loan repayment obligations relating to the Mortgaged Property.
 - (iv) The Restoration will not be completed at least one year before the Maturity Date (or 6 months before the Maturity Date if re-leasing of the Mortgaged Property will be completed within such 6-month period).
 - (v) The Restoration will not be completed within one year after the date of the Condemnation.
 - (vi) The Condemnation involved an actual or constructive loss of more than 15% of the fair market value of the Mortgaged Property, and rendered untenable more than 25% of the residential units of the Mortgaged Property.
 - (vii) After Restoration the fair market value of the Mortgaged Property is expected to be less than the fair market value of the Mortgaged Property immediately prior to the Condemnation (assuming the affected portion of

the Mortgaged Property is re-let within a reasonable period after the date of the Condemnation).

(viii) Leases covering less than 35% of residential units of the Mortgaged Property will remain in full force and effect during and after the completion of Restoration.

(e) Right to Apply Condemnation Proceeds in Connection with a Partial Release. Notwithstanding anything to the contrary set forth in this Loan Agreement, including this Section 6.11, for so long as the Loan or any portion of the Loan is included in a Securitization in which the Note is assigned to a REMIC trust, then each of the following will apply:

(i) If any portion of the Mortgaged Property is released from the Lien of the Loan in connection with a Condemnation and if the ratio of (A) the unpaid principal balance of the Loan to (B) the value of the Mortgaged Property (with the value of the Mortgaged Property first being reduced by the outstanding principal balance of any Senior Indebtedness or any indebtedness secured by the Mortgaged Property that is at the same level of priority with the Indebtedness and taking into account only the related land and buildings and not any personal property or going-concern value), as determined by Lender in its sole and absolute discretion based on a commercially reasonable valuation method permitted in connection with a Securitization, is greater than 125% immediately after such Condemnation and before any Restoration or repair of the Mortgaged Property (but taking into account any planned Restoration or repair of the Mortgaged Property as if such planned Restoration or repair were completed), then Lender will apply any net proceeds or awards from such Condemnation, in full, to the payment of the principal of the Indebtedness whether or not then due and payable, unless Lender has received an opinion of counsel (acceptable to Lender if such opinion is provided by Borrower) that a different application of the net proceeds or awards will not cause such Securitization to fail to meet applicable federal income tax qualification requirements or subject such Securitization to any tax, and the net proceeds or awards are applied in the manner specified in such opinion..

(ii) If (A) neither Borrower nor Lender has the right to receive any or all net proceeds or awards as a result of the provisions of any agreement affecting the Mortgaged Property (including any Ground Lease (if applicable), condominium document, or reciprocal easement agreement) and, therefore cannot apply the net proceeds or awards to the payment of the principal of the Indebtedness as set forth above, or (B) Borrower receives any or all of the proceeds or awards described in Section 6.11(e)(ii)(A) and fails to apply the proceeds in accordance with Section 6.11(e)(i), then Borrower will prepay the Indebtedness in an amount which Lender, in its sole and absolute discretion, deems necessary to ensure that the Securitization will not fail to meet applicable federal income tax qualification requirements or be subject

to any tax as a result of the Condemnation, unless Lender has received an opinion of counsel (acceptable to Lender if such opinion is provided by Borrower) that a different application of the net proceeds or awards will not cause such Securitization to fail to meet applicable federal income tax qualification requirements or subject such Securitization to any tax, and the net proceeds or awards are applied in the manner specified in such opinion.

- (f) Succession to Condemnation Proceeds. If the Mortgaged Property is sold at a foreclosure sale or Lender acquires title to the Mortgaged Property, Lender will automatically succeed to all rights of Borrower in and to any Condemnation proceeds and awards prior to such sale or acquisition.

6.12 Environmental Hazards.

- (a) Prohibited Activities and Conditions. Except for matters described in this Section 6.12, Borrower will not cause or permit Prohibited Activities or Conditions. Borrower will comply with all Hazardous Materials Laws applicable to the Mortgaged Property. Without limiting the generality of the previous sentence, Borrower will: (i) obtain and maintain all Environmental Permits required by Hazardous Materials Laws and comply with all conditions of such Environmental Permits, (ii) cooperate with any inquiry by any Governmental Authority, and (iii) subject to Section 6.12(g), comply with any governmental or judicial order that arises from any alleged Prohibited Activity or Condition.
- (b) Employees, Tenants and Contractors. Borrower will take all commercially reasonable actions (including the inclusion of appropriate provisions in any Leases executed after the date of this Loan Agreement) to prevent its employees, agents and contractors, and all tenants and other occupants from causing or permitting any Prohibited Activities or Conditions. Borrower will not lease or allow the sublease or use of all or any portion of the Mortgaged Property to any tenant or subtenant for nonresidential use by any user that, in the ordinary course of its business, would cause or permit any Prohibited Activity or Condition.
- (c) O&M Programs. As required by Lender, Borrower will also have established a written operations and maintenance program with respect to certain Hazardous Materials. Each such operations and maintenance program and any additional or revised operations and maintenance programs established for the Mortgaged Property pursuant to this Section 6.12 must be approved by Lender and will be referred to in this Loan Agreement as an “**O&M Program.**” Borrower will comply in a timely manner with, and cause all employees, agents, and contractors of Borrower and any other Persons present on the Mortgaged Property to comply with each O&M Program. Borrower will pay all costs of performance of Borrower’s obligations under any O&M Program, and Lender’s out of pocket costs incurred in connection with the monitoring and review of each O&M Program must be paid by Borrower upon demand by Lender. Any such out-of-pocket costs of Lender that Borrower fails to pay promptly will become an additional part of the Indebtedness as provided in Section 9.02.

- (d) Notice to Lender. Borrower will promptly give Notice to Lender upon the occurrence of any of the following events:
- (i) Borrower's discovery of any Prohibited Activity or Condition.
 - (ii) Borrower's receipt of or knowledge of any written complaint, order, notice of violation or other communication from any tenant, Property Manager, Governmental Authority or other Person with regard to present or future alleged Prohibited Activities or Conditions, or any other environmental, health or safety matters affecting the Mortgaged Property.
 - (iii) Borrower's breach of any of its obligations under this Section 6.12.

Any such Notice given by Borrower will not relieve Borrower of, or result in a waiver of, any obligation under this Loan Agreement, the Note or any other Loan Document.

- (e) Environmental Inspections, Tests and Audits. Borrower will pay promptly the costs of any environmental inspections, tests or audits, a purpose of which is to identify the extent or cause of or potential for a Prohibited Activity or Condition ("**Environmental Inspections**"), required by Lender in connection with any foreclosure or deed in lieu of foreclosure, or as a condition of Lender's consent to any Transfer under Article VII, or required by Lender following a reasonable determination by Lender that Prohibited Activities or Conditions may exist. Any such costs incurred by Lender (including Attorneys' Fees and Costs and the costs of technical consultants whether incurred in connection with any judicial or administrative process or otherwise) that Borrower fails to pay promptly will become an additional part of the Indebtedness as provided in Section 9.02. As long as: (i) no Event of Default has occurred and is continuing, (ii) Borrower has actually paid for or reimbursed Lender for all costs of any such Environmental Inspections performed or required by Lender, and (iii) Lender is not prohibited by law, contract or otherwise from doing so, Lender will make available to Borrower, without representation of any kind, copies of Environmental Inspections prepared by third parties and delivered to Lender. Lender reserves the right, and Borrower expressly authorizes Lender, to make available to any party, including any prospective bidder at a foreclosure sale of the Mortgaged Property, the results of any Environmental Inspections made by or for Lender with respect to the Mortgaged Property. Borrower consents to Lender notifying any party (either as part of a notice of sale or otherwise) of the results of any Environmental Inspections made by or for Lender. Borrower acknowledges that Lender cannot control or otherwise ensure the truthfulness or accuracy of the results of any Environmental Inspections and that the release of such results to prospective bidders at a foreclosure sale of the Mortgaged Property may have a material and adverse effect upon the amount that a party may bid at such sale. Borrower agrees that Lender will have no liability whatsoever as a result of delivering the results of any Environmental Inspections made by or for Lender to any third-party, and Borrower releases and forever discharges Lender from any and all claims, damages or causes

of action arising out of, connected with or incidental to the results of the delivery of any Environmental Inspections made by or for Lender.

- (f) Remedial Work. If any investigation, site monitoring, containment, clean-up, Restoration or other remedial work ("**Remedial Work**") is necessary to comply with any Hazardous Materials Law or order of any Governmental Authority that has or acquires jurisdiction over the Mortgaged Property or the use, operation or improvement of the Mortgaged Property, or is otherwise required by Lender as a consequence of any Prohibited Activity or Condition or to prevent the occurrence of a Prohibited Activity or Condition, Borrower will, by the earlier of (i) the applicable deadline required by Hazardous Materials Law, or (ii) 30 days after Notice from Lender demanding such action, begin performing the Remedial Work, and thereafter diligently prosecute it to completion, and must in any event complete the work by the time required by applicable Hazardous Materials Law. If Borrower fails to begin on a timely basis or diligently prosecute any required Remedial Work, Lender may, at its option, cause the Remedial Work to be completed, in which case Borrower will reimburse Lender on demand for the cost of doing so. Any reimbursement due from Borrower to Lender will become part of the Indebtedness as provided in Section 9.02.
- (g) Borrower Contest of Order. Notwithstanding Section 6.12(f), Borrower may contest the order of any Governmental Authority in good faith through appropriate proceedings, provided that (i) Borrower has demonstrated to Lender's satisfaction that any delay in completing Remedial Work pending the outcome of such proceedings would not result in damage to the Mortgaged Property or to persons who use or occupy the Improvements, or otherwise impair Lender's interest under this Loan Agreement, and (ii) if any delay in completing the Remedial Work results or may result in a Lien against the Mortgaged Property, Borrower must promptly furnish to Lender a bond or other security satisfactory to Lender in an amount not less than 150% of the applicable claim.

6.13 Single Purpose Entity Requirements.

- (a) Single Purpose Entity Requirements. Until the Indebtedness is paid in full, each Borrower and any SPE Equity Owner will remain a "**Single Purpose Entity**," which means at all times since its formation and thereafter it will satisfy each of the following conditions:
- (i) It will not engage in any business or activity, other than the ownership, operation and maintenance of the Mortgaged Property and activities incidental thereto.
 - (ii) It will not acquire, own, hold, lease, operate, manage, maintain, develop or improve any assets other than the Mortgaged Property and such Personalty as may be necessary for the operation of the Mortgaged Property and will conduct and operate its business as presently conducted and operated.

- (iii) It will preserve its existence as an entity duly organized, validly existing and in good standing (if applicable) under the laws of the jurisdiction of its formation or organization and will do all things necessary to observe organizational formalities.
- (iv) It will not merge or consolidate with any other Person.
- (v) It will not take any action to dissolve, divide or create divisions, wind-up, terminate or liquidate in whole or in part; to sell, transfer or otherwise dispose of all or substantially all of its assets; to change its legal structure; transfer or permit the direct or indirect transfer of any partnership, membership or other equity interests, as applicable, other than Transfers permitted under this Loan Agreement; issue additional partnership, membership or other equity interests, as applicable, or seek to accomplish any of the foregoing.
- (vi) It will not, without the prior unanimous written consent of all of Borrower's partners, members, or shareholders, as applicable, and, if applicable, the prior unanimous written consent of 100% of the members of the board of directors or of the board of Managers of Borrower or the SPE Equity Owner, take any of the following actions:
 - (A) File any insolvency, or reorganization case or proceeding, to institute proceedings to have Borrower or any SPE Equity Owner be adjudicated bankrupt or insolvent.
 - (B) Institute proceedings under any applicable insolvency law.
 - (C) Seek any relief under any law relating to relief from debts or the protection of debtors.
 - (D) Consent to the filing or institution of a Bankruptcy against Borrower or any SPE Equity Owner.
 - (E) File a petition seeking, or consent to, reorganization or relief with respect to Borrower or any SPE Equity Owner under any applicable federal or state law relating to bankruptcy or insolvency.
 - (F) Seek or consent to the appointment of a receiver, liquidator, assignee, trustee, sequestrator, custodian, or any similar official for Borrower or a substantial part of its property or for any SPE Equity Owner or a substantial part of its property.
 - (G) Make any assignment for the benefit of creditors of Borrower or any SPE Equity Owner.
 - (H) Admit in writing Borrower's or any SPE Equity Owner's inability to pay its debts generally as they become due.

- (I) Take action in furtherance of any of the foregoing.
- (vii) It will not amend or restate its organizational documents if such change would cause the provisions set forth in those organizational documents not to comply with the requirements set forth in this Section 6.13.
- (viii) It will not own any subsidiary or make any investment in, any other Person.
- (ix) It will not commingle its assets with the assets of any other Person and will hold all of its assets in its own name.
- (x) It will not incur any debt, secured or unsecured, direct or contingent (including guaranteeing any obligation), other than the following:
 - (A) The Indebtedness and any further indebtedness as described in Section 11.11 with regard to Supplemental Instruments.
 - (B) Customary unsecured trade payables incurred in the ordinary course of owning and operating the Mortgaged Property provided the same are not evidenced by a promissory note, do not exceed, in the aggregate, at any time a maximum amount of 2% of the original principal amount of the Indebtedness and are paid within 60 days of the date incurred.
- (C) through (I) are reserved.
- (xi) It will maintain its records, books of account, bank accounts, financial statements, accounting records and other entity documents separate and apart from those of any other Person and will not list its assets as assets on the financial statement of any other Person; provided, however, that Borrower's assets may be included in a consolidated financial statement of its Affiliate provided that (A) appropriate notation will be made on such consolidated financial statements to indicate the separateness of Borrower from such Affiliate and to indicate that Borrower's assets and credit are not available to satisfy the debts and other obligations of such Affiliate or any other Person, and (B) such assets will also be listed on Borrower's own separate balance sheet.
- (xii) Except for capital contributions or capital distributions permitted under the terms and conditions of its organizational documents, it will only enter into any contract or agreement with any general partner, member, shareholder, principal or Affiliate of Borrower or any Guarantor, or any general partner, member, principal or Affiliate thereof, upon terms and conditions that are commercially reasonable and substantially similar to those that would be available on an arm's-length basis with third parties.
- (xiii) It will not maintain its assets in such a manner that will be costly or difficult to segregate, ascertain or identify its individual assets from those of any other Person.

- (xiv) It will not assume or guaranty (excluding any guaranty that has been executed and delivered in connection with the Note) the debts or obligations of any other Person, hold itself out to be responsible for the debts of another Person, pledge its assets to secure the obligations of any other Person or otherwise pledge its assets for the benefit of any other Person, or hold out its credit as being available to satisfy the obligations of any other Person.
- (xv) It will not make or permit to remain outstanding any loans or advances to any other Person except for those investments permitted under the Loan Documents and will not buy or hold evidence of indebtedness issued by any other Person (other than cash or investment-grade securities).
- (xvi) It will file its own tax returns separate from those of any other Person, unless Borrower (A) is treated as a "disregarded entity" for tax purposes and is not required to file tax returns under applicable law or (B) is required by applicable law to file consolidated tax returns, and will pay any taxes required to be paid under applicable law.
- (xvii) It will hold itself out to the public as a legal entity separate and distinct from any other Person and conduct its business solely in its own name, will correct any known misunderstanding regarding its separate identity and will not identify itself or any of its Affiliates as a division or department of any other Person.
- (xviii) It will 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 and will pay its debts and liabilities from its own assets as the same become due; provided, however, that nothing in this Section 6.13(a)(xviii) will require any member or partner of Borrower or any Borrower Principal to make any equity contribution to Borrower.
- (xix) It will allocate fairly and reasonably shared expenses with Affiliates (including shared office space) and use separate stationery, invoices and checks bearing its own name.
- (xx) It will pay (or cause the Property Manager to pay on behalf of Borrower from Borrower's funds) its own liabilities (including salaries of its own employees) from its own funds; provided, however, that nothing in this Section 6.13(a)(xx) will require any member or partner of Borrower or any Borrower Principal to make any equity contribution to Borrower.
- (xxi) It will not acquire obligations or securities of its partners, members, shareholders, or Affiliates, as applicable.
- (xxii) Except as contemplated or permitted by the property management agreement with respect to the Property Manager, it will not permit any Affiliate or constituent party independent access to its bank accounts.

(xxiii) It will maintain a sufficient number of employees (if any) in light of its contemplated business operations and pay the salaries of its own employees, if any, only from its own funds; provided, however, that nothing in this Section 6.13(a)(xxiii) will require any member or partner of Borrower or any Borrower Principal to make any equity contribution to Borrower.

(xxiv) If such entity is a single member limited liability company, such entity will satisfy each of the following conditions:

(A) Be formed and organized under Delaware law.

(B) Have either one springing member that is a corporation or two springing members who are natural persons. If there is more than one springing member, only one springing member will be the sole member of Borrower or SPE Equity Owner (as applicable) at any one time, and the second springing member will become the sole member only upon the first springing member ceasing to be a member.

(C) Otherwise comply with all Rating Agencies' criteria for single member limited liability companies (including the delivery of Delaware single member limited liability company opinions acceptable in all respects to Lender).

(D) At all times Borrower or SPE Equity Owner (as applicable) will have one and only one member.

(xxv) If such entity is a single member limited liability company that is board-managed, such entity will have a board of Managers separate from that of Guarantor and any other Person and will cause its board of Managers to keep minutes of board meetings and actions and observe all other Delaware limited liability company required formalities.

(xxvi) If an SPE Equity Owner is required pursuant to this Loan Agreement, if Borrower is (A) a limited liability company with more than one member, then Borrower has and will have at least one member that is an SPE Equity Owner that has satisfied and will satisfy the requirements of Section 6.13(b) and such member is its managing member, or (B) a limited partnership, then all of its general partners are SPE Equity Owners that have satisfied and will satisfy the requirements set forth in Section 6.13(b).

(xxvii) Reserved.

(xxviii) Reserved.

(b) SPE Equity Owner Requirements. The SPE Equity Owner, if applicable, will at all times since its formation and thereafter comply in its own right (subject to the modifications set forth below), and will cause Borrower to comply, with each of the requirements of a Single Purpose Entity. Upon the withdrawal or the disassociation of an SPE Equity Owner from Borrower, Borrower will immediately

appoint a new SPE Equity Owner, whose organizational documents are substantially similar to those of the withdrawn or disassociated SPE Equity Owner, and if a nonconsolidation opinion was delivered on the Closing Date, deliver a new nonconsolidation opinion to Lender in form and substance satisfactory to Lender with regard to nonconsolidation by a bankruptcy court of the assets of each of Borrower and SPE Equity Owner with those of its Affiliates.

- (i) With respect to Section 6.13(a)(i), the SPE Equity Owner will not engage in any business or activity other than being the managing member or general partner, as the case may be, of Borrower and owning at least (A) 0.5% equity interest in Borrower if SPE Equity Owner is a managing member of Borrower, and (B) 0.1% equity interest in Borrower if SPE Equity Owner is a general partner of Borrower.
 - (ii) With respect to Section 6.13(a)(ii), the SPE Equity Owner has not and will not acquire or own any assets other than its equity interest in Borrower and personal property related thereto.
 - (iii) With respect to Section 6.13(a)(viii), the SPE Equity Owner will not own any subsidiary or make any investment in any other Person, except for Borrower.
 - (iv) With respect to Section 6.13(a)(x), the SPE Equity Owner has not and will not incur any debt, secured or unsecured, direct or contingent (including guaranteeing any obligation), other than (A) customary unsecured payables incurred in the ordinary course of owning Borrower provided the same are not evidenced by a promissory note, do not exceed, in the aggregate, at any time a maximum amount of \$10,000 and are paid within 60 days of the date incurred, and (B) in its capacity as general partner of Borrower (if applicable).
 - (v) With respect to Section 6.13(a)(xiv), the SPE Equity Owner will not assume or guaranty the debts or obligations of any other Person, hold itself out to be responsible for the debts of another Person, pledge its assets to secure the obligations of any other Person or otherwise pledge its assets for the benefit of any other Person, or hold out its credit as being available to satisfy the obligations of any other Person, except for in its capacity as general partner of Borrower (if applicable).
- (c) Effect of Transfer on Single Purpose Entity Requirements. Notwithstanding anything to the contrary in this Loan Agreement, no Transfer will be permitted under Article VII unless the provisions of this Section 6.13 are satisfied at all times.

6.14 Repairs and Capital Replacements.

- (a) Completion of Repairs. Borrower will commence any Repairs as soon as practicable after the date of this Loan Agreement or after Notice from Lender, as applicable, and will diligently proceed with and complete such Repairs on or before

the Completion Date. All Repairs and Capital Replacements will be completed in a good and workmanlike manner, with suitable materials, and in accordance with good building practices and all applicable laws, ordinances, rules, regulations, building setback lines and restrictions applicable to the Mortgaged Property. Borrower agrees to cause the replacement of any material or work that is defective, unworkmanlike or that does not comply with the requirements of this Loan Agreement, as determined by Lender.

- (b) Purchases. Without the prior consent of Lender, no materials, machinery, equipment, fixtures or any other part of the Repairs or Capital Replacements will be purchased or installed under conditional sale contracts or lease agreements, or any other arrangement wherein title to such Repairs or Capital Replacements is retained or subjected to a purchase money security interest, or the right is reserved or accrues to anyone to remove or repossess any such Repairs or Capital Replacements, or to consider them as personal property.
- (c) Lien Protection. Borrower will promptly pay or cause to be paid, when due, all costs, charges and expenses incurred in connection with the construction and completion of the Repairs or Capital Replacements, and will keep the Mortgaged Property free and clear of any and all Liens other than the Lien of the Security Instrument and any other Lien to which Lender has consented.
- (d) Adverse Claims. Borrower will promptly advise Lender in writing of any litigation, Liens or claims affecting the Mortgaged Property and of all complaints and charges made by any Governmental Authority that may delay or adversely affect the Repairs or Capital Replacements.

6.15 Residential Leases Affecting the Mortgaged Property.

- (a) Borrower will, promptly upon Lender's request, deliver to Lender an executed copy of each residential Lease then in effect.
- (b) All Leases for residential units will satisfy the following conditions:
 - (i) They will be on forms that are customary for similar multifamily properties in the Property Jurisdiction.
 - (ii) They will be for initial terms of at least 6 months and not more than 2 years (unless otherwise approved in writing by Lender).
 - (iii) They will not include any Corporate Leases (unless otherwise approved in writing by Lender).
 - (iv) They will not include options to purchase.
- (c) If Borrower is a cooperative housing corporation or association, notwithstanding anything to the contrary contained in this Loan Agreement, so long as Borrower

remains a cooperative housing corporation or association and is not in breach of any covenant of this Loan Agreement, Lender consents to each of the following:

- (i) The execution of Leases for terms in excess of 2 years to a tenant shareholder of Borrower, so long as such Leases, including proprietary Leases, are and will remain subordinate to the Lien of the Security Instrument.
 - (ii) The surrender or termination of such Leases where the surrendered or terminated Lease is immediately replaced or where Borrower makes its best efforts to secure such immediate replacement by a newly-executed Lease of the same apartment to a tenant shareholder of Borrower. However, no consent is given by Lender to any execution, surrender, termination or assignment of a Lease under terms that would waive or reduce the obligation of the resulting tenant shareholder under such Lease to pay cooperative assessments in full when due or the obligation of the former tenant shareholder to pay any unpaid portion of such assessments.
- (d) Reserved.

6.16 Litigation; Government Proceedings. Borrower will give prompt Notice to Lender of any litigation or governmental proceedings pending or, to the best of Borrower's knowledge, threatened in writing against Borrower or any Borrower Principal which might have a Material Adverse Effect. As and when requested by Lender, Borrower will provide Lender with written updates on the status of all litigation or governmental proceedings affecting Borrower or any Borrower Principal which might have a Material Adverse Effect.

6.17 Further Assurances and Estoppel Certificates; Lender's Expenses. Within 10 days after a request from Lender, in Lender's Discretion, Borrower will take each of the following actions:

- (a) Deliver to Lender a written statement, signed and acknowledged by Borrower, certifying to Lender or any Person designated by Lender, as of the date of such statement: (i) that the Loan Documents are unmodified and in full force and effect (or, if there have been modifications, that the Loan Documents are in full force and effect as modified and setting forth such modifications), (ii) the unpaid principal balance of the Note, (iii) the date to which interest under the Note has been paid, (iv) that Borrower is not in default in paying the Indebtedness or in performing or observing any of the covenants or agreements contained in this Loan Agreement or any of the other Loan Documents (or, if Borrower is in default, describing such default in reasonable detail), (v) whether there are any then-existing setoffs or defenses known to Borrower against the enforcement of any right or remedy of Lender under the Loan Documents, and (vi) any additional facts requested by Lender.

- (b) Execute, acknowledge and/or deliver, at its sole cost and expense, all further acts, deeds, conveyances, assignments, estoppel certificates, financing statements or amendments, transfers and assurances as Lender may require from time to time in order to better assure, grant and convey to Lender the rights intended to be granted, now or in the future, to Lender under this Loan Agreement and the Loan Documents or in connection with Lender's consent rights under Article VII.

Borrower acknowledges and agrees that, in connection with each request by Borrower under this Loan Agreement or any Loan Document, Borrower will pay all reasonable Attorneys' Fees and Costs and expenses incurred by Lender and Loan Servicer, including any fees charged by the Rating Agencies, if applicable, regardless of whether the matter is approved, denied or withdrawn. Any amounts payable by Borrower under this Loan Agreement will be deemed a part of the Indebtedness, will be secured by the Security Instrument and will bear interest at the Default Rate if not fully paid within 10 days of written demand for payment.

6.18 Cap Collateral. Reserved.

6.19 Ground Lease. Reserved.

6.20 ERISA Requirements.

- (a) Borrower will not engage in any transaction which would cause an obligation, or action taken or to be taken under this Loan Agreement (or the exercise by Lender of any of its rights under the Note, this Loan Agreement or any of the other Loan Documents) to be a non-exempt prohibited transaction under ERISA or Section 4975 of the Tax Code.
- (b) Borrower will deliver to Lender such certifications or other evidence from time to time throughout the term of this Loan Agreement, as requested by Lender in Lender's Discretion, confirming each of the following:
 - (i) Borrower is not an "employee benefit plan" as defined in Section 3(3) of ERISA, which is subject to Title I of ERISA, a "plan" to which Section 4975 of the Tax Code applies, or an entity whose underlying assets constitute "plan assets" of one or more of such plans.
 - (ii) Borrower is not a "governmental plan" within the meaning of Section 3(32) of ERISA.
 - (iii) Borrower is not subject to state statutes regulating investments or fiduciary obligations with respect to governmental plans.
 - (iv) One or more of the following circumstances is true:
 - (A) Equity interests in Borrower are publicly offered securities within the meaning of 29 C.F.R. Section 2510.3-101(b)(2), as amended from time to time or any successor provision.

(B) Less than 25% of each outstanding class of equity interests in Borrower are held by “benefit plan investors” within the meaning of Section 3(42) of ERISA, as amended from time to time or any successor provision.

(C) Borrower qualifies as either an “operating company” or a “real estate operating company” within the meaning of 29 C.F.R. Section 2510.3-101(c) or (e), as either may be amended from time to time or any successor provisions, or is an investment company registered under the Investment Company Act of 1940.

(v) Reserved.

6.21 through 6.52 are Reserved.

6.53 Economic Sanctions Laws; AML Laws.

- (a) Borrower will comply with the Economic Sanctions Laws and AML Laws, as applicable, and Borrower will take reasonable measures to ensure that each Borrower Principal will comply with the Economic Sanctions Laws and AML Laws, as applicable.
- (b) Borrower and each Borrower Principal will have in place practices and procedures for the admission of investors which are designed to prevent the admission of:
 - (i) Any Non-U.S. Equity Holder, or any investor that would have a 25% or more ownership interest in Borrower (whether directly or indirectly), and that has been convicted of a violation of the AML Laws, or been the subject of a final enforcement action relating to the AML Laws.
 - (ii) Any Person with a 25% or more ownership interest in Borrower (whether directly or indirectly) that is on the Prohibited Parties Lists.
 - (iii) Any Non-U.S. Equity Holder that is on the OFAC Lists.

6.54 Crowdfunding. Borrower will not permit any direct or indirect ownership interests in Borrower to be marketed or sold to investors through any form of Crowdfunding which constitutes either of the following.

- (a) A Controlling Interest.
- (b) An interest which may assume Control of Borrower under any terms of either Borrower’s organizational documents, or the organizational documents of any entity in Borrower’s ownership structure, regardless of whether the change in Control is the subject of a Permitted Transfer or a Conditionally Permitted Transfer.

6.55 through 6.62 are Reserved.

ARTICLE VII TRANSFERS OF THE MORTGAGED PROPERTY OR INTERESTS IN BORROWER.

7.01 Prohibited Transfers. Subject to Section 7.02 and 7.03, as applicable, the occurrence of any of the following Transfers will constitute a Prohibited Transfer:

- (a) A Transfer of all or any part of the Mortgaged Property or any interest in the Mortgaged Property, whether voluntary, involuntary or by operation of law, including (i) the grant, creation or existence of any Lien on the Mortgaged Property (other than the Lien of the Security Instrument), even if such Lien does not have priority over the Lien of the Security Instrument, and (ii) the partial release of income producing or non-income producing property.
- (b) A Transfer or series of Transfers of any legal or equitable interest of any Guarantor which owns a direct or indirect interest in Borrower that result(s) in such Guarantor no longer owning any direct or indirect interest in Borrower.
- (c) The Transfer of any Controlling Interest in Borrower or any Designated Entity for Transfers.
- (d) A Transfer or series of Transfers of any legal or equitable interest that result(s) in a Required Equity Owner no longer owning the Required Equity Ownership Interest.
- (e) The grant, creation or existence of any Lien on Ownership Interest, whether voluntary, involuntary or by operation of law, and whether or not such Lien on Ownership Interest has priority over the Lien of the Security Instrument, if the foreclosure of such Lien or the exercise of other remedies would result in a Prohibited Transfer.
- (f) The termination or revocation of a Trust if the Trust is Borrower, Guarantor or a Designated Entity for Transfers.
- (g) through (k) are Reserved.
- (l) A Transfer that requires Lender's prior consent under this Loan Agreement or a Conditionally Permitted Transfer that requires that certain conditions be satisfied, if such prior consent was not obtained or such conditions were not satisfied, as applicable.
- (m) through (q) are Reserved.

7.02 Permitted Transfers. Notwithstanding any provision of Section 7.01 to the contrary, the following Transfers are Permitted Transfers:

- (a) Permitted Transfers of the Mortgaged Property.

- (i) A Prohibited Transfer of the Mortgaged Property for which Borrower has obtained Lender's written consent.
 - (ii) The grant of a leasehold interest in an individual dwelling unit for a term of 2 years or less (or longer if approved by Lender in writing) not containing an option to purchase.
 - (iii) The creation of any New Non-Residential Lease, or the modification or termination of any Non-Residential Lease, in each case, for which Borrower satisfies the requirements of Section 6.04.
 - (iv) A Condemnation with respect to which Borrower satisfies the requirements of Section 6.11.
 - (v) A Transfer of obsolete or worn out Personalty or Fixtures that are contemporaneously replaced by items of equal or better function and quality, which are free of Liens (other than those Liens created by the Loan Documents or consented to by Lender in writing).
 - (vi) The creation of a mechanic's, materialmen's, or judgment Lien with respect to which Borrower satisfies the requirements of Section 6.09(m).
 - (vii) An easement, restrictive covenant or other encumbrance with respect to which Borrower satisfies the requirements of Section 7.10.
 - (viii) A Lien of a Supplemental Instrument with respect to which Borrower satisfies the requirements of Section 11.11.
 - (ix) A Defeasance with respect to which Borrower satisfies the requirements of Section 11.12.
- (b) Permitted Transfers of Ownership Interests.
- (i) A Transfer of any legal or equitable interests in an entity that is not Borrower or a Designated Entity for Transfers so long as such Transfer does not result in a Prohibited Transfer under Section 7.01(b) or 7.01(d).
 - (ii) A Transfer of any legal or equitable Non-Controlling Interest in Borrower or any Designated Entity for Transfers so long as such Transfer does not result in a Prohibited Transfer under Section 7.01(b) or 7.01(d).
 - (iii) A Prohibited Transfer of any legal or equitable interests in Borrower or a Designated Entity for Transfers for which Borrower has obtained Lender's written consent.
 - (iv) A Conditionally Permitted Transfer pursuant to Section 7.03, upon the satisfaction of all applicable conditions.

- (v) The Transfer by a Person of all or part of the Controlling Interest in Borrower or a Designated Entity for Transfers if such interests are first converted to a Non-Controlling Interest and the transferor retains Control of Borrower or Designated Entity for Transfers, as applicable, so long as such Transfer does not result in a Prohibited Transfer under Section 7.01(b) or 7.01(d).
- (vi) If Borrower is a housing cooperative or association, the Transfer of the shares in the housing cooperative or association or the assignment of the occupancy agreements or Leases relating to tenant shareholders.
- (c) through (r) are Reserved.

7.03 Conditionally Permitted Transfers. Notwithstanding any provision of Section 7.01 to the contrary, the occurrence of any of the following Transfers will not constitute a Prohibited Transfer if Borrower has complied with all applicable conditions specified in this Section 7.03 and in Section 7.04 (each a “Conditionally Permitted Transfer”).

(a) Conditionally Permitted Transfers - Category I (Transfer Processing Fee transactions).

- (i) **Affiliate Transfer.** An “**Affiliate Transfer**” is a Transfer of any Controlling Interest in Borrower or a Designated Entity for Transfers to an Affiliate of the transferor.
- (ii) **Intrafamily Transfer.** An “**Intrafamily Transfer**” is a Transfer of any Controlling Interest in Borrower or a Designated Entity for Transfers to an entity or revocable Trust that is Controlled by the transferor for the benefit of Immediate Family Members.
- (iii) **Transfer to Previously Underwritten Person.**

(A) A “**Transfer to Previously Underwritten Person**” is a Transfer of a Controlling Interest in Borrower or a Designated Entity for Transfers to Previously Underwritten Person due to the retirement, death, or legal incapacity of a Prior Borrower Principal. If the name of Previously Underwritten Person is not completed in the Summary then this Section 7.03(a)(iii) is not applicable.

(B) In place of the Notice required in Section 7.04(a), Borrower provides Lender with Notice of such Transfer together with copies of all documents effecting such Transfer not more than 60 days after the retirement, death, or legal incapacity of Prior Borrower Principal.

(C) If Prior Borrower Principal or its Affiliate was a Guarantor, one of the following must occur:

- (1) Lender determines that at the time of the Transfer any or all the remaining Guarantors will meet the requirements for a

Replacement Guarantor, including the Replacement Guarantor Net Worth and Liquidity Requirements, or

- (2) Previously Underwritten Person or an Affiliate becomes a Replacement Guarantor and executes and delivers a Replacement Guaranty within 60 days after the retirement, death, or legal incapacity of Prior Borrower Principal.

(D) Previously Underwritten Person certifies in writing to Lender that, since the date of this Loan Agreement, except as disclosed to and approved by Lender in writing, Previously Underwritten Person has not been:

- (1) Subject to a claim in any litigation or other proceeding (even if settled) relating to fraud, breach of fiduciary duty, breach of trust or other similar claim, or money laundering, terrorist financing, terrorism or similar claim.
- (2) To the best of Previously Underwritten Person's knowledge, investigated by any Governmental Authority in connection with any matter set forth in Section 7.03(a)(iii)(D)(1).
- (3) The subject of a complaint or indictment charging a felony.
- (4) Involved in any pending or current criminal litigation.
- (5) The subject of a Bankruptcy.
- (6) Suspended, barred or otherwise restricted by any department or agency of the federal government.

(E) Previously Underwritten Person certifies in writing to Lender that its net worth and liquidity are substantially the same as or better than the net worth and liquidity of Previously Underwritten Person as of the date of this Loan Agreement.

(F) Section 7.04(i) will not be applicable (solely with respect to the Prior Borrower Principal).

(iv) Co-Owner Transfer.

(A) A "**Co-Owner Transfer**" is a Transfer of interests in the Mortgaged Property by any co-owner of the Mortgaged Property to any other co-owner of the Mortgaged Property.

(B) Lender receives and approves the documents transferring interest in the Mortgaged Property to the transferee(s).

(C) If Borrower is a tenancy-in-common, each of the co-owners remaining after the Co-Owner Transfer executes an amendment to the Tenancy in Common Agreement reasonably acceptable to Lender.

(D) Each co-owner remaining after the Co-Owner Transfer reaffirms in writing, in a form reasonably acceptable to Lender, its obligations under the Note, Loan Agreement, Security Instrument, and any other Loan Document and acknowledges and confirms that the Note, Loan Agreement, Security Instrument, and all other Loan Documents are in full force and effect.

(E) Each Guarantor reaffirms in writing, in a form reasonably acceptable to Lender, its obligations under any Guaranty and acknowledges and confirms that the Guaranty remains in full force and effect.

(F) Borrower delivers to Lender either (1) an endorsement to the Title Policy along with a title update, or (2) a new title insurance policy, in either case with an effective date no earlier than the date of recordation of the deed transferring the interest in the Mortgaged Property to the transferee. An endorsement to the Title Policy that evidences the recordation of the deed transferring the interest in the Mortgaged Property to the transferee but which does not change the effective date of the Title Policy will not be sufficient.

(G) Following the Co-Owner Transfer, Required Co-Owner must continue to maintain the Required Co-Owner Interest as described in the Summary.

(v) TIC Roll-up Transfer.

(A) A "**TIC Roll-up Transfer**" is the termination of the existing Tenancy in Common Agreement and the Transfer of all the interests of each Co-Owner Borrower in the Mortgaged Property to a single entity ("**Consolidation Borrower**").

(B) Immediately after the TIC Roll-up Transfer, the proportional beneficial ownership interest in the Consolidation Borrower must be the same as the ultimate beneficial ownership of each Co-Owner Borrower in the Mortgaged Property immediately prior to the TIC Roll-up Transfer. By way of example, an owner of a 10% membership interest in a Co-Owner Borrower that owns 50% of the Mortgaged Property must become a 5% member of the Consolidation Borrower.

(C) If the Consolidation Borrower was formed more than 90 days prior to the date of the TIC Roll-up Transfer, the Consolidation Borrower must comply with all of Lender's then-current requirements relating to recycled entities.

(D) Following the TIC Roll-up Transfer, the Consolidation Borrower must be directly or indirectly Controlled by the Consolidation Borrower Manager identified in the Summary.

(E) All consents, agreements and other documents relating to the termination of the Tenancy in Common Agreement, the transfer of interests in the Mortgaged Property to Consolidation Borrower, and/or otherwise related to the TIC Roll-up Transfer are reasonably satisfactory to Lender.

(F) The Consolidation Borrower executes an Assumption Agreement that, among other things, requires the Consolidation Borrower to assume and perform all obligations of each Co-Owner Borrower set forth in the Loan Documents. Each Co-Owner Borrower will remain liable and Consolidation Borrower will become liable under the Loan Documents for events or circumstances occurring or existing on or before the date of the TIC Roll-up Transfer.

(G) The Assumption Agreement is recorded in the land records and Consolidation Borrower delivers either (1) an endorsement to the Title Policy along with a title update, or (2) a new title insurance policy in a form acceptable to Lender, in either case with an effective date no earlier than the date of recordation of the Assumption Agreement. An endorsement to the existing Title Policy that evidences the recordation of the deed transferring the interest in the Mortgaged Property to the Consolidation Borrower but which does not change the effective date of the Title Policy will not be sufficient.

(H) Each Guarantor reaffirms in writing, in a form reasonably acceptable to Lender, its obligations under any existing Guaranty and acknowledges and confirms that the Guaranty remains in full force and effect.

(I) The Consolidation Borrower files such financing statements as reasonably required by Lender.

(J) The TIC Roll-up Transfer is completed in accordance with the terms of this Section 7.03(a)(v) at least one year prior to the Maturity Date.

(vi) through (xv) are Reserved.

(b) Conditionally Permitted Transfers - Category II (Special Transfer Processing Fee transactions).

(i) Transfer of a Controlling Interest Due to Death.

(A) **“Transfer of a Controlling Interest Due to Death”** is (1) a Transfer to a Beneficiary of a Controlling Interest in Borrower or a Designated Entity for Transfers by devise, descent, or operation of law, due to the death of a natural person, and if applicable, (2) the subsequent Transfer by such Beneficiary to another Beneficiary of the deceased natural person (**“Second Beneficiary”**).

(B) In place of the Notice required in Section 7.04(a), Borrower provides Lender with Notice of the death not more than 60 days after the death ("**Notice of Death**").

(C) Within 30 days after the Notice of Death, Borrower notifies Lender (1) of the proposed Transfer date, (2) of the identity of the Beneficiary, and (3) whether the Beneficiary will subsequently Transfer the Controlling Interest to a Second Beneficiary and the identity of the Second Beneficiary, if applicable ("**Settlement Notice**").

(D) In place of the Transfer Processing Fee due under Section 7.04(b), Borrower pays Lender the Special Transfer Processing Fee when Borrower delivers the Settlement Notice.

(E) Contemporaneously with providing the Settlement Notice to Lender, Borrower provides evidence reasonably satisfactory to Lender that the eligibility, organization, credit and experience in the management of similar properties of Beneficiary or Second Beneficiary, as applicable, are appropriate to the overall structure and documentation of the Loan.

(F) If the Transfer of a Controlling Interest Due to Death results from the death of any Guarantor, each surviving Guarantor executes such documents and agreements as Lender reasonably requires to ratify its Guaranty within 30 days after the Notice of Death.

(G) If the Transfer of a Controlling Interest Due to Death results from the death of any Guarantor, unless Lender determines that any or all the surviving Guarantors meet the requirements for a Replacement Guarantor, including the Replacement Guarantor Net Worth and Liquidity Requirements, one of the following occurs:

- (1) Within 30 days after the Settlement Notice, Borrower causes a Replacement Guarantor to execute and deliver to Lender a Replacement Guaranty.
- (2) The estate of the deceased Guarantor ratifies the Guaranty in writing within 30 days after the Settlement Notice, and within 6 months after the death of the deceased Guarantor, Borrower causes a Replacement Guarantor to execute and deliver to Lender a Replacement Guaranty.

(H) Section 7.04(i) and (j) will not be applicable (solely with respect to any deceased Guarantor).

(ii) Preferred Equity Control Take-Over Transfer.

(A) A “Preferred Equity Control Take-Over Transfer” is a Transfer of Manager’s right to Control Borrower to Preferred Equity Investor or an Affiliate of Preferred Equity Investor pursuant to the operating agreement, joint venture agreement, or similar agreement governing a preferred equity contribution. If the name of Preferred Equity Investor is not specified in the Summary then this Transfer provision is not applicable. The Preferred Equity Control Take-Over Transfer cannot include a contemporaneous Transfer of Manager’s ownership interests to Preferred Equity Investor. Such Manager’s ownership interests may only be transferred (i) subsequent to a Preferred Equity Control Take-Over Transfer, (ii) for fair value, and (iii) otherwise in accordance with this Loan Agreement.

(B) In place of the Transfer Processing Fee required by Section 7.04(b), Borrower pays Lender the Special Transfer Processing Fee when Borrower delivers the Notice of the Transfer.

(C) Notwithstanding Section 7.04(c), if there is an Event of Default and the Preferred Equity Control Take-Over Transfer would cure the Event of Default, then the Preferred Equity Control Take-Over Transfer will be permitted if it occurs within 60 days after all applicable conditions have been met to Lender’s satisfaction.

(D) Preferred Equity Investor or an Affiliate of Preferred Equity Investor becomes a Replacement Guarantor and executes and delivers a Replacement Guaranty.

(E) Preferred Equity Investor certifies in writing to Lender that since the date of this Loan Agreement, except as disclosed to and approved by Lender, Preferred Equity Investor (or the Affiliate of Preferred Equity Investor, if applicable) has not been:

- (1) Subject to a claim in any litigation or other proceeding (even if settled) relating to fraud, breach of fiduciary duty, breach of trust or other similar claim, or money laundering, terrorist financing, terrorism or similar claim.
- (2) To the best of Preferred Equity Investor’s knowledge, investigated by any Governmental Authority in connection with any matter set forth in Section 7.03(b)(ii)(E)(1).
- (3) The subject of a complaint or indictment charging a felony.
- (4) Involved in any pending or current criminal litigation.
- (5) The subject of a Bankruptcy.
- (6) Suspended, barred or otherwise restricted by any department or agency of the federal government.

(F) Preferred Equity Investor certifies in writing to Lender that its net worth and liquidity (or the net worth and liquidity of the Affiliate of Preferred Equity Investor) are substantially the same as or better than the net worth and liquidity of Preferred Equity Investor as of the date of this Loan Agreement.

(G) Section 7.04(i) will not be applicable.

(iii) Buy-Sell Transfer.

(A) A “**Buy-Sell Transfer**” is a Transfer of Manager’s right to directly or indirectly Control Borrower and/or Manager’s direct or indirect ownership interest in Borrower with the right to Control Borrower to the Buy-Sell Equity Investor or an Affiliate of Buy-Sell Equity Investor pursuant to a buy-sell agreement, operating agreement, partnership agreement, joint venture agreement, or similar agreement. If the name of the Buy-Sell Equity Investor is not specified in the Summary then this provision is not applicable.

(B) In place of the Transfer Processing Fee required by Section 7.04(b), Borrower pays Lender the Special Transfer Processing Fee when Borrower delivers the Notice.

(C) Notwithstanding Section 7.04(c), if there is an Event of Default and the Buy-Sell Transfer would cure the Event of Default, then the Buy-Sell Transfer will be permitted if it occurs within 60 days after all applicable conditions have been met to Lender’s satisfaction.

(D) Buy-Sell Equity Investor or its Affiliate becomes a Replacement Guarantor and executes and delivers a Replacement Guaranty.

(E) Buy-Sell Equity Investor certifies in writing to Lender that since the date of this Loan Agreement, except as disclosed to and approved by Lender, Buy-Sell Equity Investor (or the Affiliate of Buy-Sell Equity Investor, if applicable) has not been:

- (1) Subject to a claim in any litigation or other proceeding (even if settled) relating to fraud, breach of fiduciary duty, breach of trust or other similar claim, or money laundering, terrorist financing, terrorism or similar claim.
- (2) To the best of Buy-Sell Equity Investor’s knowledge, investigated by any Governmental Authority in connection with any matter set forth in Section 7.03(b)(iii)(E)(1).
- (3) The subject of a complaint or indictment charging a felony.
- (4) Involved in any pending or current criminal litigation.
- (5) The subject of a Bankruptcy.

(6) Suspended, barred or otherwise restricted by any department or agency of the federal government.

(F) Buy-Sell Equity Investor certifies in writing to Lender that its net worth and liquidity (or the net worth and liquidity of the Affiliate of Buy-Sell Equity Investor, if applicable) are substantially the same as or better than the net worth and liquidity of Buy-Sell Equity Investor as of the date of this Loan Agreement.

(G) Section 7.04(i) will not be applicable.

(iv) through (viii) are Reserved.

(c) Conditionally Permitted Transfers - Category III (Transfer Processing Fee plus Conditional Transfer Fee transactions).

If the Loan is in a Securitization, for purposes of this Section 7.03(c) only, the term "Lender in Lender's Discretion" may include the determination of the approved directing certificateholder, if any, in such Securitization.

(i) Manager Transfer.

(A) A "**Manager Transfer**" is a voluntary or involuntary Transfer by a Manager ("**Departing Manager**") to one or more Existing Owners.

(B) Lender in Lender's Discretion has determined that the eligibility, organization, credit, and experience in the management of similar properties of the Existing Owner are appropriate to the overall structure and documentation of the Loan.

(C) If the Departing Manager or its Affiliate is a Guarantor, Existing Owner or an Affiliate of Existing Owner becomes a Replacement Guarantor and executes and delivers a Replacement Guaranty.

(D) Section 7.04(i) will not be applicable.

(E) Notwithstanding Section 7.04(q), Borrower pays to Lender the Conditional Transfer Fee at the time of the Manager Transfer.

(ii) Required Equity Owner Transfer.

(A) A "**Required Equity Owner Transfer**" is a Transfer by a Required Equity Owner ("**Departing Equity Owner**") of part or all of the Required Equity Ownership Interest.

(B) Lender in Lender's Discretion has determined that it is not necessary for the Departing Equity Owner to maintain the Required Equity Ownership Interest.

(C) If the Required Equity Owner Transfer takes place in connection with another Transfer, then notwithstanding Section 7.04(b), Lender will not collect a Transfer Processing Fee if a Transfer Processing Fee or Special Transfer Processing Fee was collected by Lender in connection with the other Transfer.

(D) Section 7.04(r) will not be applicable.

(E) Notwithstanding Section 7.04(q), Borrower pays to Lender the Conditional Transfer Fee at the time of the Required Equity Owner Transfer.

(iii) Release of Guarantor Transfer.

(A) A "**Release of Guarantor Transfer**" is a Transfer that occurs when Lender in Lender's Discretion agrees in writing to release a Guarantor ("**Released Guarantor**") of a portion of Released Guarantor's liability under the Guaranty.

(B) After the Release of Guarantor Transfer, there must be one or more remaining Guarantor(s), which individually or together meet the Replacement Guarantor Net Worth and Liquidity Requirements and are otherwise acceptable to Lender.

(C) If Lender consents to a Release of Guarantor Transfer, then one of the following will apply:

(1) If Borrower delivers to Lender a Clean Site Assessment, then Lender will release Released Guarantor from all of Released Guarantor's obligations except Released Guarantor's obligation to guaranty Borrower's liability under Section 6.12 or Section 10.02(b) with respect to any loss, liability, damage, claim, cost or expense which directly or indirectly arises from or relates to any Prohibited Activities or Conditions existing prior to the date of the Transfer.

(2) If Borrower does not deliver a Clean Site Assessment, then Lender will release Released Guarantor from all of Released Guarantor's obligations except for Released Guarantor's obligation to guaranty Borrower's liability under Section 6.12 or Section 10.02(b).

(D) If the Release of Guarantor Transfer takes place in connection with another Transfer, notwithstanding Section 7.04(b), Lender will not collect a Transfer Processing Fee if a Transfer Processing Fee or Special Transfer Processing Fee was collected by Lender in connection with the other Transfer.

(E) Notwithstanding Section 7.04(q), Borrower pays to Lender the Conditional Transfer Fee at the time of the Release of Guarantor Transfer unless the Release of Guarantor Transfer takes place in connection with another

Conditionally Permitted Transfer or a Transfer to which Lender has consented pursuant to Section 7.05.

(iv) through (viii) are Reserved.

(d) Reserved.

7.04 Conditions for Conditionally Permitted Transfers. The following conditions will apply to all Conditionally Permitted Transfers unless otherwise noted in Section 7.03.

- (a) Borrower provides Lender with Notice at least 30 days prior to the proposed Conditionally Permitted Transfer.
- (b) Borrower pays a Transfer Processing Fee to Lender at the time Borrower provides Lender with the Notice of such Transfer.
- (c) At the time of the Conditionally Permitted Transfer, no Event of Default has occurred and is continuing and no event or condition has occurred and is continuing that, with the giving of Notice or the passage of time, or both, would become an Event of Default.
- (d) Borrower delivers to Lender organizational charts, in form and detail acceptable to Lender, reflecting the structure of Borrower prior to and after the Conditionally Permitted Transfer. If required by Lender, the Loan Agreement is amended to revise Exhibit H to reflect the post-Conditionally Permitted Transfer organizational chart.
- (e) Borrower delivers to Lender either (i) copies of the then-current organizational documents of Borrower and any other entity in which interests will be transferred, including any proposed amendments to be made in connection with the Conditionally Permitted Transfer or (ii) a certification that the organizational documents have not been modified since the date of this Loan Agreement.
- (f) Borrower certifies in writing to Lender that as of the date of the Conditionally Permitted Transfer no Borrower Principal:
 - (i) Is on any Prohibited Parties Lists.
 - (ii) Has been convicted of a violation of the AML Laws.
 - (iii) Has been the subject of a final enforcement action relating to the AML Laws.
- (g) Borrower certifies in writing to Lender that as of the date of the Conditionally Permitted Transfer either there will not be any Non-U.S. Equity Holders, or no Non-U.S. Equity Holder:
 - (i) Is on the OFAC Lists.

- (ii) Has been convicted of a violation of the AML Laws.
 - (iii) Has been the subject of a final enforcement action relating to the AML Laws.
- (h) Following the Conditionally Permitted Transfer, one of the following is true:
- (i) The Property Manager, if applicable, continues to be responsible for the management of the Mortgaged Property, and such Conditionally Permitted Transfer will not result in a change in the day-to-day operations of the Mortgaged Property.
 - (ii) The requirements of Section 6.09(d) regarding the appointment of a new Property Manager have been or will be satisfied.
- (i) Following the Conditionally Permitted Transfer, Control and management of the operations of Borrower continue to be held by the Person exercising such Control and management immediately prior to the Conditionally Permitted Transfer.
- (j) Unless a Replacement Guarantor is applicable, Guarantor continues to own a direct or indirect interest in Borrower if Guarantor owned a direct or indirect interest in Borrower prior to the Conditionally Permitted Transfer.
- (k) Reserved.
- (l) If any transferee or any Replacement Guarantor is an entity, Borrower provides to Lender satisfactory evidence that the term of existence of such entity (exclusive of any unexercised extension options or rights) does not expire prior to the Maturity Date.
- (m) If there is a Replacement Guaranty or a modification of any Loan Document, Borrower delivers to Lender customary legal opinions, as Lender reasonably deems necessary, in form and substance satisfactory to Lender.
- (n) Borrower and Guarantor execute such documents and agreements as Lender reasonably requires to evidence the Transfer and to ratify their obligations under the Loan Documents.
- (o) If a nonconsolidation opinion was delivered on the Closing Date and if, after giving effect to the Conditionally Permitted Transfer and all prior Transfers, 50% or more in the aggregate of direct or indirect interests in Borrower are owned by any Person and its Affiliates that owned less than a 50% direct or indirect interest in Borrower as of the Closing Date, Borrower delivers to Lender an opinion of counsel for Borrower, in form and substance satisfactory to Lender, regarding nonconsolidation.

- (p) Borrower pays or reimburses Lender, upon demand, for all costs and expenses, including all Attorneys' Fees and Costs incurred by Lender in connection with such Conditionally Permitted Transfer.
- (q) Lender will not be entitled to collect a Transfer Fee or Conditional Transfer Fee.
- (r) Upon completion of any Conditionally Permitted Transfer, Required Equity Owner must own the Required Equity Ownership Interest.
- (s) Upon completion of any Conditionally Permitted Transfer, Borrower must be in compliance with Section 7.06 and 7.07 of this Loan Agreement, if applicable.
- (t) through (v) are Reserved.

7.05 Lender's Consent to Prohibited Transfers.

- (a) Conditions for Lender's Consent. With respect to a Transfer that would otherwise constitute an Event of Default under this Article VII, Lender will consent, without any adjustment to the rate at which the Indebtedness bears interest or to any other economic terms of the Indebtedness set forth in the Note, if, prior to such Transfer, each of the following requirements is satisfied:
 - (i) Borrower has provided Lender with Notice at least 45 days prior to the proposed Transfer and has paid the Transfer Processing Fee at the time of such Notice.
 - (ii) At least 30 days prior to the proposed Transfer, Borrower has submitted to Lender all information required by Lender to make the determinations required by this Section 7.05.
 - (iii) As of the date of the Transfer, no Event of Default has occurred and is continuing and no event or condition has occurred and is continuing that, with the giving of Notice or the passage of time, or both, would become an Event of Default unless such Transfer would cure the Event of Default.
 - (iv) Lender in Lender's Discretion has determined that the transferee's organization, credit and experience in the management of similar properties meet Lender's standards and are appropriate to the overall structure and documentation of the Loan.
 - (v) Lender in Lender's Discretion has determined that the proposed Guarantor's credit meets Lender's standards.
 - (vi) Lender in Lender's Discretion has determined that the Mortgaged Property at the time of the proposed Transfer will be managed by a Property Manager meeting the requirements of Section 6.09(d).

- (vii) Lender in Lender's Discretion has determined that the Mortgaged Property, at the time of the proposed Transfer, will meet all of Lender's standards as to its physical condition, occupancy, net operating income, and the accumulation of reserves (or appropriate reserves acceptable to Lender are established).
- (viii) Reserved.
- (ix) Lender has determined that none of the transferee, any proposed Borrower Principal of the transferee or any Non-U.S. Equity Holder of the transferee is presently listed on the OFAC Lists and neither the transferee or any proposed Borrower Principal of the transferee is listed on the FHFA SCP List.
- (x) Lender has determined that neither the transferee nor any proposed Borrower Principal has been convicted of a violation of the AML Laws or has been the subject of a final enforcement action relating to the AML Laws.
- (xi) If any Supplemental Instrument is outstanding, Borrower has obtained the consent of each Supplemental Lender, if different from Lender.
- (xii) Borrower and Guarantor execute such additional documents as Lender may require to evidence the Transfer.
- (xiii) In the case of a Transfer of all or any part of the Mortgaged Property by deed, each of the following conditions is satisfied:
 - (A) The transferee executes the Assumption Agreement.
 - (B) Lender may, in Lender's Discretion, by Notice to Borrower and the proposed transferee(s), (1) modify or render void any or all the negotiated modifications to the Loan Documents and/or (2) reinstate Imposition Reserve Deposits that were waived or deferred for the transferor as a condition to Lender's consent to the proposed Transfer.
 - (C) If required by Lender, one or more Replacement Guarantor(s) satisfying the Replacement Guarantor Net Worth and Liquidity Requirements, executes and delivers to Lender a Replacement Guaranty.
 - (D) The transferee executes such additional documentation (including financing statements, as applicable) as Lender may require.
 - (E) The transferee delivers either (1) an endorsement to the Title Policy along with a title update or (2) a new title insurance policy, in either case with an effective date no earlier than the date of recordation of the deed transferring the interest in the Mortgaged Property. An endorsement to the Title Policy that evidences the recordation of the deed transferring the interest in the Mortgaged

Property to the transferee but which does not change the effective date of the Title Policy will not be sufficient.

(xiv) In the case of a Transfer of any Controlling Interest in Borrower or Designated Entity for Transfers, each of the following conditions is satisfied:

(A) Borrower and Guarantor execute such documents and agreements as Lender requires to evidence the Transfer and to ratify their obligations under the Loan Documents.

(B) Lender may, in Lender's Discretion, by Notice to Borrower and the proposed transferee(s) (1) modify or render void any or all the negotiated modifications to the Loan Documents and/or (2) reinstate Imposition Reserve Deposits that were waived or deferred for the transferor as a condition to Lender's consent to the proposed Transfer.

(C) If required by Lender, one or more Replacement Guarantor(s) satisfying the Replacement Guarantor Net Worth and Liquidity Requirements, executes and delivers to Lender a Replacement Guaranty.

(D) The transferee executes such additional documentation (including financing statements, as applicable) as Lender may require.

(xv) Lender has received such legal opinions as Lender deems necessary, including a nonconsolidation opinion (if a nonconsolidation opinion was delivered on the Closing Date and if required by Lender), an opinion that the assignment and assumption of the Loan Documents has been duly authorized, executed, and delivered, and that the assumption documents and the Loan Documents are enforceable as the obligations of Borrower, transferee, and Guarantor, as applicable.

(xvi) Borrower pays to Lender all costs, including the cost of all title searches, title insurance and recording costs, and all Attorneys' Fees and Costs incurred in reviewing the Transfer request and any fees charged by the Rating Agencies, if applicable.

(xvii) At the time of the Transfer, Borrower pays the Transfer Fee to Lender.

(xviii) Upon completion of any Transfer pursuant to this Section 7.05, Borrower must be in compliance with Section 7.06 and Section 7.07 of this Loan Agreement, if applicable.

(xix) through (xxvii) are Reserved.

(b) Continuing Liability of Borrower. If Borrower requests a release of its liability under the Loan Documents in connection with a Transfer of all of Borrower's

interest in the Mortgaged Property, and Lender approves the Transfer pursuant to Section 7.05(a), then one of the following will apply:

- (i) If Borrower delivers to Lender a Clean Site Assessment, then Lender will release Borrower from all of Borrower's obligations under the Loan Documents except for any liability under Section 6.12 or Section 10.02(b) with respect to any loss, liability, damage, claim, cost or expense which directly or indirectly arises from or relates to any Prohibited Activities or Conditions existing prior to the date of the Transfer.
 - (ii) If Borrower does not deliver a Clean Site Assessment as described in Section 7.05(b)(i), then Lender will release Borrower from all of Borrower's obligations under the Loan Documents except for liability under Section 6.12 or Section 10.02(b).
- (c) Continuing Liability of Guarantor. If Guarantor requests a release of its liability under the Guaranty in connection with a Transfer which is permitted, conditionally permitted, or approved by Lender pursuant to this Article VII, and Borrower has provided a Replacement Guarantor in compliance with the terms of this Loan Agreement, then one of the following will apply:
- (i) If Borrower delivers to Lender a Clean Site Assessment, then Lender will release Guarantor from all of Guarantor's obligations except Guarantor's guaranty of Borrower's liability under Section 6.12 or Section 10.02(b) with respect to any loss, liability, damage, claim, cost or expense which directly or indirectly arises from or relates to any Prohibited Activities or Conditions existing prior to the date of the Transfer.
 - (ii) If Borrower does not deliver a Clean Site Assessment as described in Section 7.05(c)(i), then Lender will release Guarantor from all of Guarantor's obligations except for Guarantor's guaranty of Borrower's liability under Section 6.12 or Section 10.02(b).

7.06 SPE Equity Owner Requirement Following Transfer. Following any Transfer, Borrower must satisfy any applicable conditions regarding an SPE Equity Owner set forth in Section 6.13(a)(xxvi) of this Loan Agreement.

7.07 Additional Transfer Requirements - External Cap Agreement.

- (a) Continuation of Cap Agreement. If a Transfer of all or part of the Mortgaged Property permitted by this Loan Agreement occurs, Borrower will ensure that any third-party Cap Agreement is transferred to the applicable transferee or, if the Cap Agreement is not transferable, Borrower will replace the third-party Cap Agreement in accordance with Lender's then-current requirements.
- (b) Establishment or Modification of Rate Cap Agreement Reserve Fund.

- (i) If the third-party Cap Agreement which will be in place immediately following the Transfer is scheduled to expire prior to the Maturity Date, Lender may require Borrower to establish a Rate Cap Agreement Reserve Fund.
- (ii) If Borrower has previously established a Rate Cap Agreement Reserve Fund, then Lender will determine whether the balance of any existing Rate Cap Agreement Reserve Fund is sufficient under then-current market conditions to purchase a Replacement Cap Agreement, and may then take any of the following actions:
 - (A) Lender may require Borrower to make an additional deposit into the Rate Cap Agreement Reserve Fund.
 - (B) If funding of the Rate Cap Agreement Reserve Fund has been deferred, Lender may require Borrower to begin making monthly deposits into the Rate Cap Agreement Reserve Fund.
 - (C) Lender may require Borrower to increase the amount of monthly deposits to the Rate Cap Agreement Reserve Fund.

7.08 Reserved.

7.09 Reserved.

7.10 Easement, Restrictive Covenant or Other Encumbrance. The grant of an easement, restrictive covenant or other encumbrance (other than a mechanic's, materialman's or judgment Lien, or any Lien securing indebtedness) will be a Permitted Transfer if each of the following conditions is satisfied:

- (a) Borrower provides Lender with at least 30 days prior Notice of the proposed Transfer.
- (b) Prior to the Transfer, Lender determines, in Lender's Discretion, that the easement, restrictive covenant or other encumbrance will not materially affect the operation or value of the Mortgaged Property or Lender's interest in the Mortgaged Property.
- (c) Borrower pays or reimburses Lender, upon demand, for all costs and expenses, including all Attorneys' Fees and Costs, incurred by Lender in connection with reviewing Borrower's request for Lender's review of such grant of easement, restrictive covenant, or other encumbrance; provided, however, that Lender will not be entitled to collect a Transfer Processing Fee, a Special Transfer Processing Fee, a Transfer Fee, or a Conditional Transfer Fee.
- (d) If the Note is held by a REMIC trust, Lender may obtain an opinion of counsel, at Borrower's expense, which meets each of the following requirements:
 - (i) The counsel providing the opinion is acceptable to Lender.

- (ii) The opinion is addressed to Lender.
- (iii) The opinion is in form and substance satisfactory to Lender in its sole and absolute discretion.
- (iv) The opinion confirms each of the following:
 - (A) The grant of such easement, restrictive covenant or other encumbrance has been effected in accordance with the requirements of Treasury Regulation Section 1.860G-2(a)(8) (as such regulation may be modified, amended or replaced from time to time).
 - (B) The qualification and status of the REMIC trust as a REMIC will not be adversely affected or impaired because of such grant.
 - (C) That there will be no imposition of a tax under applicable REMIC provisions because of such grant.

ARTICLE VIII ACTIONS OR EVENTS RELATING TO GUARANTOR.

8.01 Guarantor Bankruptcy. If there is a Bankruptcy with respect to a Guarantor, then the following requirements must be satisfied:

- (a) Borrower or Guarantor must provide Notice of such Bankruptcy to Lender at least 30 days prior to the filing of a voluntary Bankruptcy or within 30 days after the commencement of an involuntary Bankruptcy.
- (b) Within 90 days after filing a voluntary Bankruptcy or commencement of an involuntary Bankruptcy, if such action is not dismissed, then Borrower must cause a Replacement Guarantor to execute and deliver to Lender a Replacement Guaranty, together with such customary legal opinions as Lender deems necessary.
- (c) Borrower must pay or reimburse Lender, upon demand, for all costs and expenses, including all Attorneys' Fees and Costs, incurred by Lender in connection with the replacement of Guarantor.
- (d) Borrower must pay the Special Transfer Processing Fee to Lender in connection with the replacement of Guarantor at the time of the delivery of the Replacement Guaranty.

8.02 Guarantor Status Event. If there is a Status Event with respect to a Guarantor, the following requirements must be satisfied:

- (a) Borrower or Guarantor must provide Notice of such Status Event and pay the Special Transfer Processing Fee to Lender within 30 days after a Status Event.

- (b) Within 30 days after a Status Event, Borrower must cause a Replacement Guarantor to execute and deliver to Lender a Replacement Guaranty, together with such customary legal opinions as Lender deems necessary.
- (c) Borrower must pay or reimburse Lender, upon demand, for all costs and expenses including all Attorneys' Fees and Costs, incurred by Lender in connection with the Status Event.
- (d) In connection with a Status Event that would result from the expiration of an entity Guarantor's term of existence:
 - (i) in lieu of Section 8.02(b), Guarantor must satisfy one of the Guarantor Expiration Alternatives set forth in Section 22 of the Guaranty and provide such customary legal opinions as Lender deems necessary;
 - (ii) in lieu of Section 8.02(a), Borrower or Guarantor must provide Notice to Lender of the Guarantor Expiration Alternative it has selected at least 30 days prior to its satisfaction along with payment of the Special Transfer Processing Fee, provided that if the Guarantor Expiration Alternative is an Extension (as defined in Section 22(b)(i) of the Guaranty), then no Special Transfer Processing Fee will be due to Lender.

8.03 Death of a Guarantor Not in Control of Borrower. If there is a death of a Guarantor Not in Control of Borrower, the following requirements must be satisfied:

- (a) Borrower must provide Notice to Lender within 60 days after the death of any Guarantor Not in Control of Borrower along with the Special Transfer Processing Fee.
- (b) Each surviving Guarantor must execute such documents and agreements as Lender requires in Lender's Discretion to ratify its Guaranty within 30 days after the Notice required under Section 8.03(a).
- (c) Unless Lender determines that any or all the surviving Guarantors meet the requirements for a Replacement Guarantor, including the Replacement Guarantor Net Worth and Liquidity Requirements, one of the following must occur:
 - (i) Within 30 days after the Notice required under Section 8.03(a), Borrower causes a Replacement Guarantor to execute and deliver to Lender a Replacement Guaranty.
 - (ii) The estate of the deceased Guarantor ratifies the Guaranty in writing within 30 days after the Notice required under Section 8.03(a), and within 6 months after the death of the applicable Guarantor, Borrower causes a Replacement Guarantor to execute and deliver to Lender a Replacement Guaranty.

- (d) Borrower must pay or reimburse Lender, upon demand, for all costs and expenses including all Attorneys' Fees and Costs, incurred by Lender in connection with the replacement of the Guarantor.

ARTICLE IX EVENTS OF DEFAULT AND REMEDIES.

9.01 Events of Default. The occurrence of any one or more of the following will constitute an Event of Default under this Loan Agreement:

- (a) Borrower fails to pay or deposit when due any amount required by the Note, this Loan Agreement or any other Loan Document.
- (b) Borrower fails to maintain the Insurance coverage required by Section 6.10.
- (c) Borrower or any SPE Equity Owner fails to comply with the provisions of Section 6.13 or if any of the assumptions contained in any nonconsolidation opinions delivered to Lender at any time is or becomes untrue in any material respect.
- (d) Borrower or any SPE Equity Owner, any of its officers, directors, trustees, general partners or managers or any Guarantor commits fraud or a material misrepresentation or material omission in connection with: (i) the application for or creation of the Indebtedness, (ii) any financial statement, Rent Schedule, or other report or information provided to Lender during the term of the Indebtedness, or (iii) any request for Lender's consent to any proposed action, including a request for disbursement of funds under this Loan Agreement.
- (e) Borrower fails to comply with the Condemnation provisions of Section 6.11.
- (f) Any of the following occurs, whether or not any actual impairment of Lender's security results from such action:
 - (i) A Transfer occurs that violates the provisions of Article VII.
 - (ii) A Status Event occurs with respect to Borrower.
 - (iii) A Status Event occurs with respect to any Guarantor that is an entity, unless the conditions set forth in Section 8.02 are satisfied.
- (g) A forfeiture action or proceeding, whether civil or criminal, is commenced which could result in a forfeiture of the Mortgaged Property or otherwise materially impair the Lien created by the Security Instrument or Lender's interest in the Mortgaged Property.
- (h) Borrower fails to perform any of its obligations under this Loan Agreement (other than those specified in Section 9.01), as and when required, which failure continues for a period of 30 days after Notice of such failure by Lender to Borrower. However, if Borrower's failure to perform its obligations as described in this

Section 9.01(h) is of the nature that it cannot be cured within the 30 day cure period after such Notice from Lender but reasonably could be cured within 90 days, then Borrower will have additional time as determined by Lender in Lender's Discretion, not to exceed an additional 60 days, in which to cure such default, provided that Borrower has diligently commenced to cure such default during the initial 30 day cure period and diligently pursues the cure of such default. However, no such Notice or cure periods will apply in the case of any such failure which could, in Lender's judgment, absent immediate exercise by Lender of a right or remedy under this Loan Agreement, result in harm to Lender, danger to tenants or third parties, or impairment of the Note, the Security Instrument or this Loan Agreement or any other security given under any other Loan Document.

- (i) Borrower fails to perform any of its obligations as and when required under any Loan Document other than this Loan Agreement which failure continues beyond the applicable cure period, if any, specified in that Loan Document.
- (j) The holder of any other debt instrument secured by a mortgage, deed of trust or deed to secure debt on the Mortgaged Property exercises any right to declare all amounts due under that debt instrument immediately due and payable.
- (k) Any of the following occurs:
 - (i) Borrower or any SPE Equity Owner commences a Bankruptcy.
 - (ii) Any party other than Lender commences a Bankruptcy against Borrower or any SPE Equity Owner which (A) results in the entry of an order for relief or any such adjudication or appointment, or (B) has not been dismissed, discharged or bonded for a period of 90 days.
 - (iii) Any action or legal proceeding is commenced against Borrower or any SPE Equity Owner seeking issuance of a warrant of attachment, execution, distraint or similar process against all or any substantial part of its assets which results in the entry of any order by a court of competent jurisdiction for any such relief which is not vacated, dismissed, stayed, or bonded pending appeal within 90 days from the entry thereof.
 - (iv) Borrower or any SPE Equity Owner takes any action in furtherance of, or indicating its consent to, approval of, or acquiescence in, any of the acts set forth in Section 9.01(k)(i), (ii) or (iii).
- (l) Borrower or any SPE Equity Owner has made any representation or warranty in Article V or any other Section of this Loan Agreement that is false or misleading in any material respect.
- (m) If the Loan is secured by an interest under a Ground Lease, Borrower fails to comply with the provisions of Section 6.19.

- (n) If the Loan is a Supplemental Loan, any Event of Default occurs under (i) the Senior Note, the Senior Instrument or any other Senior Loan Document, or (ii) any loan document related to another loan in connection with the Mortgaged Property, regardless of whether Borrower has obtained Supplemental Lender's approval of the placement of such Lien on the Mortgaged Property. In addition, if the Loan is a Supplemental Loan, as Borrower under both the Supplemental Instrument and the Senior Instrument, Borrower acknowledges and agrees that if there is an Event of Default under the Supplemental Note, the Supplemental Instrument or any other Supplemental Loan Document, such Event of Default will be an Event of Default under the terms of the Senior Instrument and will entitle Senior Lender to invoke any and all remedies permitted to Senior Lender by applicable law, the Senior Note, the Senior Instrument or any of the other Senior Loan Documents.
- (o) If the Mortgaged Property is subject to any covenants, conditions and/or restrictions, land use restriction agreements or similar agreements, Borrower fails to perform any of its obligations under any such agreement as and when required, and such failure continues beyond any applicable cure period.
- (p) Any of the following occurs with respect to a Guarantor:
 - (i) A Bankruptcy or other similar action is commenced by or against any Guarantor, unless the conditions set forth in Section 8.01 are satisfied.
 - (ii) A natural person who is a Guarantor dies, unless the conditions set forth in Section 7.03(b) or Section 8.03, as applicable, are satisfied.
 - (iii) A Guarantor that is an entity whose term of existence expires prior to the Maturity Date fails to comply with each of the requirements set forth in Section 22 of the Guaranty.
 - (iv) Guarantor fails to comply with the provisions of the Section of the Guaranty entitled "Material Adverse Change" or "Minimum Net Worth/Liquidity Requirements" as applicable.
- (q) If the Loan Documents require a Cap Agreement, Borrower fails to provide Lender with a Replacement Cap Agreement prior to the expiration of the then-existing Cap Agreement.
- (r) through (zzzz) are Reserved.

9.02 Protection of Lender's Security; Security Instrument Secures Future Advances.

- (a) If Borrower fails to perform any of its obligations under this Loan Agreement or any other Loan Document, or if any action or proceeding is commenced which purports to affect the Mortgaged Property, Lender's security or Lender's rights under this Loan Agreement, including eminent domain, insolvency, code enforcement, civil or criminal forfeiture, enforcement of Hazardous Materials

Laws, fraudulent conveyance or reorganizations or proceedings involving a bankrupt or decedent, then Lender, in Lender's Discretion, may make such appearances, file such documents, disburse such sums and take such actions as Lender reasonably deems necessary to perform such obligations of Borrower and to protect Lender's interest, including: (i) payment of Attorneys' Fees and Costs, (ii) payment of fees and out-of-pocket expenses of accountants, inspectors and consultants, (iii) entry upon the Mortgaged Property to make Repairs or secure the Mortgaged Property, (iv) procurement of the Insurance required by Section 6.10, (v) payment of amounts which Borrower has failed to pay under Section 6.08, (vi) performance of Borrower's obligations under Section 6.09, and (vii) advances made by Lender to pay, satisfy or discharge any obligation of Borrower for the payment of money that is secured by a Prior Lien.

- (b) Any amounts disbursed by Lender under this Section 9.02, or under any other provision of this Loan Agreement that treats such disbursement as being made under this Section 9.02, will be secured by the Security Instrument, will be added to, and become part of, the principal component of the Indebtedness, will be immediately due and payable and will bear interest from the date of disbursement until paid at the Default Rate.
- (c) Nothing in this Section 9.02 will require Lender to incur any expense or take any action.

9.03 Remedies.

- (a) Upon an Event of Default, Lender may exercise any or all of its rights and remedies provided under the Loan Documents and Borrower will pay all costs associated therewith, including Attorneys' Fees and Costs.
- (b) Each right and remedy provided in this Loan Agreement is distinct from all other rights or remedies under this Loan Agreement or any other Loan Document or afforded by applicable law or equity, and each will be cumulative and may be exercised concurrently, independently or successively, in any order. Lender's exercise of any particular right or remedy will not in any way prevent Lender from exercising any other right or remedy available to Lender. Lender may exercise any such remedies from time to time and as often as Lender chooses.
- (c) Lender will have all remedies available to Lender under Revised Article 9 of the Uniform Commercial Code of the Property Jurisdiction, the Loan Documents and under applicable law.
- (d) Lender may also retain (i) all money in the Reserve Funds, including interest, and (ii) any Cap Payment, and in Lender's sole and absolute discretion, may apply such amounts, without restriction and without any specific order of priority, to the payment of any and all Indebtedness.
- (e) If a claim or adjudication is made that Lender has acted unreasonably or unreasonably delayed acting in any case where, by law or under this Loan

Agreement or the other Loan Documents, Lender has an obligation to act reasonably or promptly, then Lender will not be liable for any monetary damages, and Borrower's sole remedy will be limited to commencing an action seeking injunctive relief or declaratory judgment. Any action or proceeding to determine whether Lender has acted reasonably will be determined by an action seeking declaratory judgment.

- (f) through (g) are Reserved.

9.04 Forbearance.

- (a) Lender may (but will not be obligated to) agree with Borrower, from time to time, and without giving Notice to, or obtaining the consent of, or having any effect upon the obligations of, any Guarantor or other third-party obligor, to take any of the following actions:
- (i) Extend the time for payment of all or any part of the Indebtedness.
 - (ii) Reduce the payments due under this Loan Agreement, the Note or any other Loan Document.
 - (iii) Release anyone liable for the payment of any amounts under this Loan Agreement, the Note or any other Loan Document.
 - (iv) Accept a renewal of the Note.
 - (v) Modify the terms and time of payment of the Indebtedness.
 - (vi) Join in any extension or subordination agreement.
 - (vii) Release any portion of the Mortgaged Property.
 - (viii) Take or release other or additional security.
 - (ix) Modify the rate of interest or period of amortization of the Note or change the amount of the monthly installments payable under the Note.
 - (x) Otherwise modify this Loan Agreement, the Note or any other Loan Document.
- (b) Any forbearance by Lender in exercising any right or remedy under the Note, this Loan Agreement or any other Loan Document or otherwise afforded by applicable law, will not be a waiver of or preclude the exercise of any other right or remedy, or the subsequent exercise of any right or remedy. The acceptance by Lender of payment of all or any part of the Indebtedness after the due date of such payment, or in an amount which is less than the required payment, will not be a waiver of Lender's right to require prompt payment when due of all other payments on account of the Indebtedness or to exercise any remedies for any failure to make

prompt payment. Enforcement by Lender of any security for the Indebtedness will not constitute an election by Lender of remedies that preclude the exercise of any other right available to Lender. Lender's receipt of any awards or proceeds under Sections 6.10 and 6.11 will not operate to cure or waive any Event of Default.

- 9.05 Waiver of Marshalling.** Notwithstanding the existence of any other security interests in the Mortgaged Property held by Lender or by any other party, Lender will have the right to determine the order in which any or all of the Mortgaged Property will be subjected to the remedies provided in this Loan Agreement or any other Loan Document or applicable law. Lender will have the right to determine the order in which any or all portions of the Indebtedness are satisfied from the proceeds realized upon the exercise of such remedies. Borrower and any party who now or in the future acquires a security interest in the Mortgaged Property and who has actual or constructive notice of the Security Instrument waives any and all right to require the marshalling of assets or to require that any of the Mortgaged Property be sold in the inverse order of alienation or that any of the Mortgaged Property be sold in parcels or as an entirety in connection with the exercise of any of the remedies permitted by applicable law or provided in this Loan Agreement.

ARTICLE X RELEASE; INDEMNITY.

- 10.01 Release.** Borrower covenants and agrees that, in performing any of its duties under this Loan Agreement, none of Lender, Loan Servicer or any of their respective agents or employees will be liable for any losses, claims, damages, liabilities and expenses that may be incurred by any of them as a result of such performance, except that no party will be released from liability for any losses, claims, damages, liabilities or expenses arising out of the willful misconduct or gross negligence of such party.

10.02 Indemnity.

- (a) General Indemnity. Borrower agrees to indemnify, hold harmless and defend Lender, including any custodian, trustee and other fiduciaries who hold or have held a full or partial interest in the Loan for the benefit of third parties, any prior owner or holder of the Note, the Loan Servicer, any prior Loan Servicer, the officers, directors, shareholders, partners, employees and trustees of each of the foregoing, and the heirs, legal representatives, successors and assigns of each of the foregoing (collectively, "**Indemnitees**") against any and all losses, claims, damages, liabilities and expenses including Attorneys' Fees and Costs, which may be imposed or incurred by any of them directly or indirectly arising out of, or in any way relating to, or as a result of: (i) any failure of the Mortgaged Property to comply with the laws, regulations, ordinance, code or decree of any Governmental Authority, including those pertaining to the Americans with Disabilities Act, zoning, occupancy and subdivision of real property, (ii) any obligation of Borrower under any Lease, and (iii) any accident, injury or death to any natural person on the Mortgaged Property or any damage to personal property located on the Mortgaged Property, except that no such party will be indemnified from liability for any losses,

claims, damages, liabilities or expenses arising out of the willful misconduct or gross negligence of such party.

- (b) Environmental Indemnity. Borrower agrees to indemnify, hold harmless and defend Indemnitees from and against all proceedings, claims, damages, penalties and costs (whether initiated or sought by Governmental Authorities or private parties), including Attorneys' Fees and Costs and remediation costs, whether incurred in connection with any judicial or administrative process or otherwise, arising directly or indirectly from any of the following:
- (i) Any breach of any representation or warranty of Borrower in Section 5.05.
 - (ii) Any failure by Borrower to perform any of its obligations under Section 6.12.
 - (iii) The existence or alleged existence of any Prohibited Activity or Condition.
 - (iv) The presence or alleged presence of Hazardous Materials on or under the Mortgaged Property or in any of the Improvements.
 - (v) The actual or alleged violation of any Hazardous Materials Law.
- (c) Indemnification Regarding ERISA Covenants. **BORROWER WILL INDEMNIFY LENDER AND DEFEND AND HOLD LENDER HARMLESS FROM AND AGAINST ALL CIVIL PENALTIES, EXCISE TAXES, OR OTHER LOSS, COST, DAMAGE AND EXPENSE (INCLUDING REASONABLE ATTORNEYS' FEES AND COSTS INCURRED IN THE INVESTIGATION, DEFENSE AND SETTLEMENT OF CLAIMS AND LOSSES INCURRED IN CORRECTING ANY PROHIBITED TRANSACTION OR IN THE SALE OF A PROHIBITED LOAN, AND IN OBTAINING ANY INDIVIDUAL PROHIBITED TRANSACTION EXEMPTION UNDER ERISA THAT MAY BE REQUIRED, IN LENDER'S SOLE AND ABSOLUTE DISCRETION) THAT LENDER MAY INCUR, DIRECTLY OR INDIRECTLY, AS A RESULT OF DEFAULT UNDER SECTION 6.20. THIS INDEMNITY WILL SURVIVE ANY TERMINATION, SATISFACTION OR FORECLOSURE OF THE SECURITY INSTRUMENT.**
- (d) Securitization Indemnification.
- (i) Borrower agrees to indemnify, hold harmless and defend the Indemnified Parties from and against any and all proceedings, losses, claims, damages, liabilities, penalties, costs and expenses (whether initiated or sought by Governmental Authorities or private parties), including Attorneys' Fees and Costs, which may be incurred by any Indemnified Party (either directly or indirectly), which arise out of, are in any way related to, or are as a result of a claim that the Borrower Information contains an untrue statement of any material fact or the Borrower Information omits to state a material fact

necessary in order to make the statements therein, in light of the circumstances under which they are made, not misleading (collectively, the "Securitization Indemnification").

- (ii) Borrower will not be liable under the Securitization Indemnification if the claim is based on Borrower Information that Lender has materially misstated or materially misrepresented in the Disclosure Document.
- (iii) For purposes of this Section 10.02(d) only:

(A) "**Borrower Information**" includes any information provided at any time to Lender or Loan Servicer by Borrower, any SPE Equity Owner, any Guarantor, any Property Manager or any Indemnification Affiliate of the foregoing with respect to any of the following:

- (1) Any Person listed in Section 10.02(d)(iii)(A).
- (2) The Loan.
- (3) The Mortgaged Property.

Borrower Information includes: (I) representations and warranties made in the Loan Documents, (II) financial statements of Borrower, any SPE Equity Owner, any Designated Entity for Transfers or any Guarantor, and (III) operating statements and rent rolls with respect to the Mortgaged Property. Borrower Information does not include any information provided directly to Lender or Loan Servicer by a third-party such as an appraiser or an environmental consultant.

(B) "**Indemnification Affiliate**" of any Person means:

- (1) Any other individual or entity that is, directly or indirectly, one of the following:
 - (I) In Control of the applicable Person.
 - (II) Under the Control of the applicable Person.
 - (III) Under common Control with the applicable Person.
- (2) Any individual that is a director or officer of the applicable Person.
- (3) Any individual that is a director or officer of any entity described in clause (1) of this definition.

(C) An "**Issuer Person**" includes all the following:

- (1) Any Person that has filed the registration statement, if any, relating to the Securitization, and any Affiliate of such Person.
 - (2) Any Person acting as issuer, depositor, sponsor and/or in a similar capacity with respect to the Securitization, and any Affiliate of such Person.
- (D) The “**Issuer Group**” includes all the following:
- (1) Each director and officer of any Issuer Person.
 - (2) Each entity that Controls any Issuer Person within the meaning of Section 15 of the Securities Act or Section 20 of the Securities Exchange Act.
- (E) The “**Underwriter Group**” includes all the following:
- (1) Each entity which is acting as an underwriter, manager, placement agent, initial purchaser or in a similar capacity with respect to the Securitization.
 - (2) Each entity that Controls any such entity described in Section 10.02(d)(iii)(E)(1) within the meaning of Section 15 of the Securities Act or Section 20 of the Securities Exchange Act and is acting as an underwriter, manager, placement agent, initial purchaser or in a similar capacity with respect to the Securitization.
 - (3) The directors and officers of the entities described in Section 10.02(d)(iii)(E)(1) and Section 10.02(d)(iii)(E)(2).
- (F) “**Indemnified Party**” or “**Indemnified Parties**” means one or more of Lender, Issuer Person, Issuer Group, and Underwriter Group.
- (G) The term “**Lender**” includes its officers and directors.
- (e) Economic Sanctions and AML Laws Indemnity. Borrower agrees to indemnify, hold harmless and defend Indemnitees from and against all proceedings, claims, damages, penalties and costs (whether initiated or sought by Governmental Authorities or private parties), including Attorneys’ Fees and Costs and remediation costs, whether incurred in connection with any judicial or administrative process or otherwise, arising directly or indirectly from any failure of Borrower or any Borrower Principal to comply with the Economic Sanctions Laws or AML Laws (“**Economic Sanctions and AML Laws Indemnity**”).
- (f) Selection and Direction of Counsel. Counsel selected by Borrower to defend Indemnitees will be subject to the approval of those Indemnitees. In any

circumstances in which the indemnity under this Article X applies, Lender may employ its own legal counsel and consultants to prosecute, defend or negotiate any claim or legal or administrative proceeding and Lender, with the prior written consent of Borrower (which will not be unreasonably withheld, delayed or conditioned) may settle or compromise any action or legal or administrative proceeding. However, unless an Event of Default has occurred and is continuing, or the interests of Borrower and Lender are in conflict, as determined by Lender in Lender's Discretion, Lender will permit Borrower to undertake the actions referenced in this Article X so long as Lender approves such action, which approval will not be unreasonably withheld or delayed. Borrower will reimburse Lender upon demand for all costs and expenses incurred by Lender, including all costs of settlements entered into in good faith, consultants' fees and Attorneys' Fees and Costs.

- (g) Settlement or Compromise of Claims. Borrower will not, without the prior written consent of those Indemnitees who are named as parties to a claim or legal or administrative proceeding ("**Claim**"), settle or compromise the Claim if the settlement (i) results in the entry of any judgment that does not include as an unconditional term the delivery by the claimant or plaintiff to Lender of a written release of those Indemnitees, satisfactory in form and substance to Lender or (ii) may materially and adversely affect Lender, as determined by Lender in Lender's Discretion.
- (h) Effect of Changes to Loan on Indemnification Obligations. Borrower's obligation to indemnify the Indemnitees will not be limited or impaired by any of the following, or by any failure of Borrower or any Guarantor to receive notice of or consideration for any of the following:
- (i) Any amendment or modification of any Loan Document.
 - (ii) Any extensions of time for performance required by any Loan Document.
 - (iii) Any provision in any of the Loan Documents limiting Lender's recourse to property securing the Indebtedness, or limiting the personal liability of Borrower or any other party for payment of all or any part of the Indebtedness.
 - (iv) The accuracy or inaccuracy of any representations and warranties made by Borrower under this Loan Agreement or any other Loan Document.
 - (v) The release of Borrower or any other Person, by Lender or by operation of law, from performance of any obligation under any Loan Document.
 - (vi) The release or substitution in whole or in part of any security for the Indebtedness.

- (vii) Lender's failure to properly perfect any Lien or security interest given as security for the Indebtedness.
- (i) Payments by Borrower. Borrower will, at its own cost and expense, do all of the following:
 - (i) Pay or satisfy any judgment or decree that may be entered against any Indemnitee or Indemnitees in any legal or administrative proceeding incident to any matters against which Indemnitees are entitled to be indemnified under this Article X.
 - (ii) Reimburse Indemnitees for any expenses paid or incurred in connection with any matters against which Indemnitees are entitled to be indemnified under this Article X.
 - (iii) Reimburse Indemnitees for any and all expenses, including Attorneys' Fees and Costs, paid or incurred in connection with the enforcement by Indemnitees of their rights under this Article X, or in monitoring and participating in any legal or administrative proceeding.
- (j) Other Obligations. The provisions of this Article X will be in addition to any and all other obligations and liabilities that Borrower may have under applicable law or under other Loan Documents, and each Indemnitee will be entitled to indemnification under this Article X without regard to whether Lender or that Indemnitee has exercised any rights against the Mortgaged Property or any other security, pursued any rights against any Guarantor, or pursued any other rights available under the Loan Documents or applicable law. If Borrower consists of more than one Person, the obligation of those Persons to indemnify the Indemnitees under this Article X will be joint and several. The obligation of Borrower to indemnify the Indemnitees under this Article X will survive any repayment or discharge of the Indebtedness, any foreclosure proceeding, any foreclosure sale, any delivery of any deed in lieu of foreclosure, and any release of record of the Lien of the Security Instrument. Notwithstanding the foregoing, if Lender has never been a mortgagee-in-possession of, or held title to, the Mortgaged Property, Borrower will have no obligation to indemnify the Indemnitees under this Article X after the date of the release of record of the Lien of the Security Instrument by payment in full at the Maturity Date or by voluntary prepayment in full.
- (k) Reserved.

10.03 Reserved.

ARTICLE XI MISCELLANEOUS PROVISIONS.

- 11.01 Waiver of Statute of Limitations, Offsets and Counterclaims.** Borrower waives the right to assert any statute of limitations as a bar to the enforcement of this Loan Agreement or the Lien of the Security Instrument or to any action brought to enforce any Loan Document. Borrower waives the right to assert a counterclaim, other than a

compulsory counterclaim, in any action or proceeding brought against it by Lender or otherwise to offset any obligations to make the payments required by the Loan Documents. No failure by Lender to perform any of its obligations under the Loan Documents will be a valid defense to, or result in any offset against, any payments that Borrower is obligated to make under any of the Loan Documents.

11.02 Governing Law; Consent to Jurisdiction and Venue.

- (a) This Loan Agreement, and any Loan Document which does not itself expressly identify the law which is to apply to it, will be governed by the laws of the Property Jurisdiction.
- (b) Borrower agrees that any controversy arising under or in relation to the Note, the Security Instrument, this Loan Agreement or any other Loan Document may be litigated in the Property Jurisdiction. The state and federal courts and authorities with jurisdiction in the Property Jurisdiction will have jurisdiction over all controversies that may arise under or in relation to the Note, any security for the Indebtedness or any other Loan Document. Borrower irrevocably consents to service, jurisdiction and venue of such courts for any such litigation and waives any other venue to which it might be entitled by virtue of domicile, habitual residence or otherwise. However, nothing in this Section 11.02 is intended to limit Lender's right to bring any suit, action or proceeding relating to matters under this Loan Agreement in any court of any other jurisdiction.

11.03 Notice.

- (a) All Notices under or concerning this Loan Agreement will be in writing. Each Notice will be deemed given on the earliest to occur of: (i) the date when the Notice is received by the addressee, (ii) the first Business Day after the Notice is delivered to a recognized overnight courier service, with arrangements made for payment of charges for next Business Day delivery, or (iii) the third Business Day after the Notice is deposited in the United States mail with postage prepaid, certified mail, return receipt requested. Addresses for Notice are set forth in the Summary.

Lender will endeavor to provide a courtesy copy of any Notice given to Borrower by Lender to the Person at the address set forth in the Summary. However, the failure to provide such courtesy copy will not affect the validity or sufficiency of any Notice to Borrower, will not affect Lender's rights and remedies under this Loan Agreement or any other Loan Document, and will not subject Lender to any claims by or liability to Borrower or any other Person. No Person listed as a courtesy copy Notice recipient will be a third-party beneficiary of any of the Loan Documents.

- (b) Any party to this Loan Agreement may change the address to which Notices intended for it are to be directed by means of Notice given to the other party in accordance with this Section 11.03. Each party agrees that it will not refuse or reject delivery of any Notice given in accordance with this Section 11.03, that it will

acknowledge, in writing, the receipt of any Notice upon request by the other party and that any Notice rejected or refused by it will be deemed for purposes of this Section 11.03 to have been received by the rejecting party on the date so refused or rejected, as conclusively established by the records of the U.S. Postal Service or the courier service.

(c) Any Notice under the Note and any other Loan Document that does not specify how Notices are to be given will be given in accordance with this Section 11.03.

(d) Reserved.

11.04 Successors and Assigns Bound. This Loan Agreement will bind the respective successors and assigns of Borrower and Lender, and the rights granted by this Loan Agreement will inure to Lender's successors and assigns.

11.05 Joint and Several (and Solidary) Liability. If more than one Person signs this Loan Agreement as Borrower, the obligations of such Persons will be joint and several. For a Mortgaged Property located in Louisiana, if more than one Person signs this Loan Agreement as Borrower, the obligations of such Persons will be joint and several and solidary, and wherever the phrase "joint and several" appears in this Loan Agreement, the phrase is amended to read "joint, several, and solidary."

11.06 Relationship of Parties; No Third-Party Beneficiary.

(a) The relationship between Lender and Borrower will be solely that of creditor and debtor, respectively, and nothing contained in this Loan Agreement will create any other relationship between Lender and Borrower. Nothing contained in this Loan Agreement will constitute Lender as a joint venturer, partner or agent of Borrower, or render Lender liable for any debts, obligations, acts, omissions, representations or contracts of Borrower.

(b) No creditor of any party to this Loan Agreement and no other Person will be a third-party beneficiary of this Loan Agreement or any other Loan Document. Without limiting the generality of the preceding sentence: (i) any arrangement ("**Servicing Arrangement**") between Lender and any Loan Servicer for loss sharing or interim advancement of funds will constitute a contractual obligation of such Loan Servicer that is independent of the obligation of Borrower for the payment of the Indebtedness, (ii) Borrower will not be a third-party beneficiary of any Servicing Arrangement, and (iii) no payment by the Loan Servicer under any Servicing Arrangement will reduce the amount of the Indebtedness.

11.07 Severability; Amendments.

(a) The invalidity or unenforceability of any provision of this Loan Agreement will not affect the validity or enforceability of any other provision, and all other provisions will remain in full force and effect. This Loan Agreement contains the entire

agreement among the parties as to the rights granted and the obligations assumed in this Loan Agreement.

- (b) This Loan Agreement may not be amended or modified except by a writing signed by the party against whom enforcement is sought.

11.08 Disclosure of Information.

- (a) Borrower acknowledges that Lender and Freddie Mac may provide to third parties with an existing or prospective interest in the servicing, enforcement, evaluation, performance, ownership, purchase, participation or Securitization of the Loan, including any of the Rating Agencies, any entity maintaining databases on the underwriting and performance of commercial mortgage loans, as well as governmental regulatory agencies having regulatory authority over Lender or Freddie Mac, any and all information which Lender or Freddie Mac now has or may hereafter acquire relating to the Loan, the Mortgaged Property, Borrower, any SPE Equity Owner or any Guarantor, as Lender or Freddie Mac determines necessary or desirable and that such information may be included in disclosure documents in connection with a Securitization or syndication of participation interests, including a prospectus, prospectus supplement, offering memorandum, private placement memorandum or similar document (each, a “**Disclosure Document**”) and also may be included in any filing with the Securities and Exchange Commission pursuant to the Securities Act or the Securities Exchange Act. To the fullest extent permitted under applicable law, Borrower irrevocably waives all rights, if any, to prohibit such disclosure, including any right of privacy.
- (b) Borrower agrees that Lender and Freddie Mac may publicly use, at their discretion, the name of the Mortgaged Property, photographs of the Mortgaged Property, and basic transaction information (for example, the number of units in the Mortgaged Property and the Loan Amount) relating to the Loan.

11.09 Determinations by Lender. Unless otherwise provided in this Loan Agreement, in any instance where the consent or approval of Lender may be given or is required, or where any determination, judgment or decision is to be rendered by Lender under this Loan Agreement, the granting, withholding or denial of such consent or approval and the rendering of such determination, judgment or decision will be made or exercised by Lender (or its designated representative) at its sole and exclusive option and in its sole and absolute discretion.

11.10 Sale of Note; Change in Servicer; Loan Servicing. The Note or a partial interest in the Note (together with this Loan Agreement and the other Loan Documents) may be sold one or more times without prior Notice to Borrower. A sale may result in a change of the Loan Servicer. There also may be one or more changes of the Loan Servicer unrelated to a sale of the Note. If there is a change of the Loan Servicer, Borrower will be given Notice of the change. All actions regarding the servicing of the Loan evidenced by the Note, including the collection of payments, the giving and receipt of Notice, inspections of the Mortgaged Property, inspections of books and records, and

the granting of consents and approvals, may be taken by the Loan Servicer unless Borrower receives Notice to the contrary. If Borrower receives conflicting Notices regarding the identity of the Loan Servicer or any other subject, any such Notice from Lender will govern.

11.11 Supplemental Financing.

- (a) This Section will apply only if at the time of any application referred to in Section 11.11(b), Freddie Mac has in effect a product described in its *Multifamily Seller/Servicer Guide* under which it purchases supplemental mortgages on multifamily properties that meet specified criteria ("**Supplemental Mortgage Product**"). For purposes of this Section 11.11 only, the term "Freddie Mac" will include any affiliate or subsidiary of Freddie Mac.
- (b) After the first anniversary of the date of this Loan Agreement, or, if there are any Supplemental Loans affecting the Mortgaged Property, after the first anniversary of the date of the Supplemental Note for the most recently-incurred Supplemental Loan, Freddie Mac will consider an application from an originating lender that is generally approved by Freddie Mac to sell mortgages to Freddie Mac under the Supplemental Mortgage Product ("**Approved Seller/Servicer**") for the purchase by Freddie Mac of a proposed indebtedness of Borrower to the Approved Seller/Servicer to be secured by one or more Supplemental Instruments on the Mortgaged Property. Freddie Mac will purchase each Supplemental Loan secured by the Mortgaged Property if each of the following conditions is satisfied:
 - (i) At the time of the proposed Supplemental Loan, no Event of Default may have occurred and be continuing and no event or condition may have occurred and be continuing that, with the giving of Notice or the passage of time, or both, would become an Event of Default.
 - (ii) Borrower and the Mortgaged Property must be acceptable to Freddie Mac under its Supplemental Mortgage Product.
 - (iii) New loan documents must be entered into to reflect each Supplemental Loan, such documents to be acceptable to Freddie Mac in its discretion.
 - (iv) No Supplemental Loan may cause the combined debt service coverage ratio of the Mortgaged Property after the making of that Supplemental Loan to be less than the Minimum DSCR. As used in this Section, the term "combined debt service coverage ratio" means, with respect to the Mortgaged Property, the ratio of:

(A) the annual net operating income from the operations of the Mortgaged Property at the time of the proposed Supplemental Loan,

to

(B) the aggregate of the annual principal and interest payable on all of the following:

- (1) the Indebtedness under this Loan Agreement (using a 30-year amortization schedule),
- (2) any "Indebtedness" as defined in any security instruments recorded against the Mortgaged Property (using a 30-year amortization schedule for any Supplemental Loans), and
- (3) the proposed "Indebtedness" for any Supplemental Loan (using a 30-year amortization schedule).

As used in this Section 11.11, "annual principal and interest" with respect to a floating rate loan will be calculated by Freddie Mac using an interest rate equal to one of the following:

- (X) If the loan has an internal interest rate cap, the Capped Interest Rate.
- (Y) If the loan has an external interest rate cap, the Original Strike Rate plus the Margin.
- (Z) If the loan has no interest rate cap, the greater of (I) 7%, or (II) the then-current Index Rate plus the Margin plus 300 basis points.

The annual net operating income of the Mortgaged Property will be as determined by Freddie Mac in its discretion considering factors such as income in place at the time of the proposed Supplemental Loan and income during the preceding 12 months, and actual, historical and anticipated operating expenses. Freddie Mac will determine the combined debt service coverage ratio of the Mortgaged Property based on its underwriting. Borrower will provide Freddie Mac such financial statements and other information Freddie Mac may require to make these determinations.

- (v) No Supplemental Loan may cause the combined loan to value ratio of the Mortgaged Property after the making of that Supplemental Loan to exceed the Maximum Combined LTV, as determined by Freddie Mac. As used in this Section, "combined loan to value ratio" means, with respect to the Mortgaged Property, the ratio, expressed as a percentage, of:

(A) the aggregate outstanding principal balances of all of the following:

- (1) the Indebtedness under this Loan Agreement,

- (2) any "Indebtedness" as defined in any security instruments recorded against the Mortgaged Property, and
- (3) the proposed "Indebtedness" for any Supplemental Loan,

to

- (B) the value of the Mortgaged Property.

Freddie Mac will determine the combined loan to value ratio of the Mortgaged Property based on its underwriting. Borrower will provide Freddie Mac such financial statements and other information Freddie Mac may require to make these determinations. In addition, Freddie Mac, at Borrower's expense, may obtain MAI appraisals of the Mortgaged Property in order to assist Freddie Mac in making the determinations under this Section 11.11. If Freddie Mac requires an appraisal, then the value of the Mortgaged Property that will be used to determine whether the Maximum Combined LTV has been met will be the lesser of the appraised value set forth in such appraisal or the value of the Mortgaged Property as determined by Freddie Mac.

- (vi) Borrower's organizational documents are amended to permit Borrower to incur additional debt in the form of Supplemental Loans (Lender will consent to such amendment(s)).
- (vii) One or more Persons acceptable to Freddie Mac executes and delivers to the Approved Seller/Servicer a Guaranty in a form acceptable to Freddie Mac with respect to the exceptions to non-recourse liability described in Freddie Mac's form promissory note, unless Freddie Mac has elected to waive its requirement for a Guaranty.
- (viii) The loan term of each Supplemental Loan will be coterminous with the Senior Indebtedness or longer than the Senior Indebtedness, in Freddie Mac's discretion.
- (ix) The Prepayment Premium Period of each Supplemental Loan will be coterminous with the Prepayment Premium Period or the combined Lockout Period and Defeasance Period, as applicable, of the Senior Indebtedness.
- (x) The interest rate of each Supplemental Loan will be determined by Freddie Mac in its discretion.
- (xi) Lender enters into an intercreditor agreement ("**Intercreditor Agreement**") acceptable to Freddie Mac and to Lender for each Supplemental Loan.

(xii) Borrower's payment of fees and other expenses charged by Lender, Freddie Mac, the Approved Seller/Servicer, and the Rating Agencies (including reasonable Attorneys' Fees and Costs) in connection with reviewing and originating each Supplemental Loan.

(xiii) Commencing on the date that the first Supplemental Loan is originated and continuing for so long as any Supplemental Loan is outstanding, the first lien Senior Lender will begin collection of any deferred Monthly Deposit or Revised Monthly Deposit for Capital Replacements in accordance with Section 4.04(e) (if applicable) as well as Imposition Reserve Deposits for any of the following Impositions marked 'Deferred' in the Summary:

(A) Property Insurance premiums or premiums for other Insurance required by Lender under Section 6.10; provided, however, the first lien Senior Lender will not begin collection of any deferred Property Insurance premiums payable with respect to insurance coverage requirements under Section 6.10 that are otherwise satisfied by a blanket or master policy of insurance covering the Mortgaged Property.

(B) Taxes and payments in lieu of taxes

(C) Ground Rents

Such deposits will be credited to the payment of any such required Imposition Reserve Deposits under any Supplemental Loan.

(xiv) If any covenants, conditions and restrictions affecting the Mortgaged Property provide for a lien for any assessments or other unpaid amounts, Borrower will provide satisfactory evidence that such lien will be subordinate to the lien of the Supplemental Instrument.

(xv) All other requirements of the Supplemental Mortgage Product must be met, unless Freddie Mac has elected to waive one or more of its requirements.

(xvi) Reserved.

(xvii) Reserved.

(xviii) Reserved.

(c) No later than 5 Business Days after Lender's receipt of a written request from Borrower, Lender will provide the following information to an Approved Seller/Servicer:

(i) The then-current outstanding principal balance of the Senior Indebtedness.

(ii) Payment history of the Senior Indebtedness.

- (iii) Whether any Reserve Funds are being collected on the Senior Indebtedness and the amount of each such Reserve Fund deposit as of the date of the request.
- (iv) Whether any Repairs, Capital Replacements or improvements or rental achievement or burn-off guaranty requirements are existing or outstanding under the terms of the Senior Indebtedness.
- (v) A copy of the most recent inspection report for the Mortgaged Property.
- (vi) Whether any modifications or amendments have been made to the Loan Documents for the Senior Indebtedness since origination of the Senior Indebtedness and, if applicable, a copy of such modifications and amendments.
- (vii) Whether to Lender's knowledge any Event of Default exists under the Senior Indebtedness.

Lender will only be obligated to provide this information in connection with Borrower's request for a Supplemental Loan from an Approved Seller/Service. Notwithstanding anything in this Section 11.11 to the contrary, if Freddie Mac is the owner of the Note, this Section 11.11(c) is not applicable.

- (d) Lender will have no obligation to consent to any mortgage or Lien on the Mortgaged Property that secures any indebtedness other than the Indebtedness, except as set forth in this Loan Agreement.
- (e) If a Supplemental Loan is made to Borrower, Borrower agrees that the terms of the Intercreditor Agreement will govern with respect to any distributions of excess proceeds by Lender to the Supplemental Lender, and Borrower agrees that Lender may distribute any excess proceeds received by Lender pursuant to the Loan Documents to Supplemental Lender pursuant to the Intercreditor Agreement.

11.12 Defeasance. (Section Applies if Loan is Assigned to REMIC Trust Prior to the Cut-off Date and if the Note provides for Defeasance). This Section 11.12 will apply only if the Note is assigned to a REMIC trust prior to the Cut-off Date, and if the Note provides for Defeasance. If both of these conditions are met, then, subject to Section 11.12(a) and (c), Borrower will have the right to defease the Loan in whole ("**Defeasance**") and obtain the release of the Mortgaged Property from the Lien of the Security Instrument upon the satisfaction of each of the following conditions:

- (a) Borrower will not have the right to obtain Defeasance at any of the following times:
 - (i) If the Loan is not assigned to a REMIC trust.
 - (ii) During the Lockout Period.
 - (iii) After the expiration of the Defeasance Period.

- (iv) After Lender has accelerated the maturity of the unpaid principal balance of, accrued interest on, and other amounts payable under, the Note pursuant to Section 11 of the Note.
- (b) Borrower will give Lender Notice ("**Defeasance Notice**") specifying a Business Day ("**Defeasance Closing Date**") on which Borrower desires to close the Defeasance. The Defeasance Closing Date specified by Borrower may not be more than 60 calendar days, nor less than 30 calendar days, after the date on which Lender receives the Defeasance Notice. Lender will acknowledge receipt of the Defeasance Notice and will notify Borrower of the identity of the accommodation borrower ("**Successor Borrower**").
- (c) The Defeasance Notice must be accompanied by a \$10,000 non-refundable fee ("**Defeasance Fee**") for Lender's processing of the Defeasance. If Lender does not receive the Defeasance Fee, then Borrower's right to obtain Defeasance pursuant to that Defeasance Notice will terminate.
- (d)
 - (i) If Borrower timely pays the Defeasance Fee, but Borrower fails to perform its other obligations under this Section 11.12, Lender will have the right to retain the Defeasance Fee as liquidated damages for Borrower's default and, except as provided in Section 11.12(d)(ii), Borrower will be released from all further obligations under this Section 11.12. Borrower acknowledges that Lender will incur financing costs in arranging and preparing for the release of the Mortgaged Property from the Lien of the Security Instrument in reliance on the executed Defeasance Notice. Borrower agrees that the Defeasance Fee represents a fair and reasonable estimate, taking into account all circumstances existing on the date of this Loan Agreement, of the damages Lender will incur by reason of Borrower's default.
 - (ii) If the Defeasance is not consummated on the Defeasance Closing Date for any reason, Borrower agrees to reimburse Lender for all third-party costs and expenses (other than financing costs covered by Section 11.12(d)(i)) incurred by Lender in reliance on the executed Defeasance Notice, within 5 Business Days after Borrower receives a written demand for payment, accompanied by a statement, in reasonable detail, of Lender's third-party costs and expenses.
 - (iii) All payments required to be made by Borrower to Lender pursuant to this Section 11.12 will be made by wire transfer of immediately available funds to the account(s) designated by Lender in its acknowledgement of the Defeasance Notice.
- (e) No Event of Default has occurred and is continuing.
- (f) Borrower will deliver each of the following documents to Lender, in form and substance satisfactory to Lender, on or prior to the Defeasance Closing Date, unless Lender has issued a written waiver of its right to receive any such document:

- (i) One or more opinions of counsel for Borrower confirming each of the following:
 - (A) Lender has a valid and perfected first Lien and first priority security interest in the Defeasance Collateral and the proceeds of the Defeasance Collateral.
 - (B) The Pledge Agreement is duly authorized, executed, delivered and enforceable against Borrower in accordance with its terms.
 - (C) If, as of the Defeasance Closing Date, the Note is held by a REMIC trust, then each of the following is correct:
 - (1) The Defeasance has been effected in accordance with the requirements of Treasury Regulation Section 1.860G-2(a)(8) (as such regulation may be modified, amended or replaced from time to time).
 - (2) The qualification and status of the REMIC trust as a REMIC will not be adversely affected or impaired as a result of the Defeasance.
 - (3) That there will be no imposition of a tax under applicable REMIC provisions as a result of the Defeasance.
 - (D) The Defeasance will not result in a "sale or exchange" of the Note within the meaning of Section 1001(c) of the Tax Code and the temporary and final regulations promulgated thereunder.
- (ii) A written certificate from an independent certified public accounting firm (reasonably acceptable to Lender), confirming that the Defeasance Collateral will generate cash sufficient to make all Scheduled Debt Payments as they fall due under the Note, including full payment due on the Note on the Maturity Date.
- (iii) Lender's form of a pledge and security agreement ("**Pledge Agreement**") and financing statements which pledge and create a first priority security interest in the Defeasance Collateral in favor of Lender.
- (iv) Lender's form of a transfer and assumption agreement ("**Transfer and Assumption Agreement**"), pursuant to which Borrower and any Guarantor (in each case, subject to satisfaction of all requirements under this Loan Agreement) will be relieved from liability in connection with the Loan to the extent described in Sections 7.05(b) and 7.05(c), respectively, and Successor Borrower will assume all remaining obligations.
- (v) Forms of all documents necessary to release the Mortgaged Property from the Liens created by the Security Instrument and related UCC financing

statements (collectively, "**Release Instruments**"), each in appropriate form required by the Property Jurisdiction.

- (vi) Any other opinions, certificates, documents or instruments that Lender may reasonably request.
- (g) Borrower will deliver to Lender, on or prior to the Defeasance Closing Date, each of the following:
 - (i) The Defeasance Collateral, which meets all of the following requirements:
 - (A) It is owned by Borrower, free and clear of all Liens and claims of third-parties.
 - (B) It is in an amount sufficient to provide for (1) redemption payments to occur prior, but as close as possible, to all successive Installment Due Dates occurring under the Note after the Defeasance Closing Date, and (2) delivery of redemption proceeds at least equal to the amount of principal and interest due on the Note on each Installment Due Date including full payment due on the Note on the Maturity Date ("**Scheduled Debt Payments**").
 - (C) All redemption payments received from the Defeasance Collateral will be paid directly to Lender to be applied on account of the Scheduled Debt Payments occurring after the Defeasance Closing Date.
 - (D) The pledge of the Defeasance Collateral will be effected through the book-entry facilities of a qualified securities intermediary designated by Lender in conformity with all applicable laws.
 - (ii) All accrued and unpaid interest and all other sums due under the Note, this Loan Agreement and under the other Loan Documents, including all amounts due under Section 11.12(i), up to the Defeasance Closing Date.
- (h) Reserved.
- (i) Borrower will pay all reasonable costs and expenses incurred by Lender in connection with the Defeasance in full on or prior to the Defeasance Closing Date, which payment is required prior to Lender's issuance of the Release Instruments and whether or not Defeasance is completed. Such expenses include all fees, costs and expenses incurred by Lender and its agents in connection with the Defeasance (including Attorneys' Fees and Costs for the review and preparation of the Pledge Agreement and of the other materials described in this Loan Agreement and any related documentation, Rating Agencies' fees, or other costs related to the Defeasance).

Lender reserves the right to require that Borrower post a deposit to cover costs which Lender reasonably anticipates that Lender will incur in connection with the Defeasance.

(j) No Transfer Fee, Conditional Transfer Fee, Transfer Processing Fee or Special Transfer Processing Fee will be payable to Lender upon a Defeasance made in accordance with this Section 11.12.

(k) Reserved.

11.13 Lender's Rights to Sell or Securitize. Borrower acknowledges that Lender, and each successor to Lender's interest, may (without prior Notice to Borrower or Borrower's prior consent), sell or grant participations in the Loan (or any part of the Loan), sell or subcontract the servicing rights related to the Loan, securitize the Loan or place the Loan in a trust. Borrower agrees to cooperate with all reasonable requests of Lender in connection with any of the foregoing including taking the following actions:

- (a) Executing any financing statements or other documents deemed necessary by Lender or its transferee to create, perfect or preserve the rights and interest to be acquired by such transferee.
- (b) Delivering revised organizational documents, counsel opinions, and executed amendments to the Loan Documents satisfactory to the Rating Agencies.
- (c) Providing updated financial information with appropriate verification through auditors' letters, if required by Lender. (If Lender requires that Borrower's updated financial information be accompanied by appropriate verification through auditors' letters, then Lender will reimburse Borrower for the costs which Borrower reasonably incurs in connection with obtaining such auditors' letters.)
- (d) Providing updated information on all litigation proceedings affecting Borrower or any Borrower Principal as required in Section 6.16.
- (e) Reviewing information contained in any Disclosure Document and providing a mortgagor estoppel certificate, written confirmation of Borrower's indemnification obligations under this Loan Agreement, and such other information about Borrower, any SPE Equity Owner, any Guarantor, any Property Manager or the Mortgaged Property as Lender may require for Lender's offering materials.

Notwithstanding anything set forth above in this Section 11.13, Borrower will not be required to execute any document that changes the interest rate, the stated maturity date or the amortization of principal set forth in the Note, or that modifies or amends any essential economic terms of the Loan.

11.14 Cooperation with Rating Agencies and Investors. Borrower covenants and agrees that if Lender decides to include the Loan as an asset of a Secondary Market Transaction, Borrower will do all of the following:

- (a) At Lender's request, meet with representatives of the Rating Agencies and/or investors to discuss the business and operations of the Mortgaged Property.

- (b) Permit Lender or its representatives to provide related information to the Rating Agencies and/or investors.
- (c) Cooperate with the reasonable requests of the Rating Agencies and/or investors in connection with all of the foregoing.

11.15 Letter of Credit Requirements.

- (a) Any Letter of Credit required under this Loan Agreement must satisfy the following conditions:
 - (i) It must be a clean, irrevocable, unconditional standby letter of credit.
 - (ii) It must name Lender as the sole beneficiary and permit Lender to assign the Letter of Credit without further consent from Issuer.
 - (iii) It must have an initial term of not less than 12 months.
 - (iv) It must be in the form required by Lender.
 - (v) It must provide that it may be drawn on by Lender or Loan Servicer, in whole or in part, by presentation to Issuer of a sight draft without any other restrictions on the right to draw.
 - (vi) It must be issued by an Issuer meeting Lender's requirements, which Issuer (i) must be an Eligible Institution, and (ii) may not, unless Lender agrees in writing, be an affiliate of Borrower or Lender.
 - (vii) It must be obtained on behalf of Borrower by a Person other than Borrower's general partners or managing members if Borrower is a general or limited partnership or limited liability company. Neither Borrower nor the general partners or managing members, if applicable, may have any liability or other obligations under any reimbursement agreement with respect to the Letter of Credit.
 - (viii) It may not be secured by a lien on all or any part of the Mortgaged Property or related Personalty.
 - (ix) When delivered to Lender, it must be accompanied by an opinion acceptable to Lender in Lender's Discretion issued by counsel to the Issuer that includes opinions as to Issuer's power and authority to issue the Letter of Credit and the enforceability of the Letter of Credit against Issuer and an updated nonconsolidation opinion with regard to any such Letter of Credit in form and substance satisfactory to Lender.
- (b) If at any time the Issuer of a Letter of Credit held by Lender ceases to be an Eligible Institution, Lender will have the right to immediately draw down the Letter of

Credit in full and hold the Proceeds in an escrow account in accordance with the terms of this Loan Agreement.

- (c) Each Letter of Credit held by Lender pursuant to this Loan Agreement provides additional collateral for the Indebtedness in addition to the lien of the Security Instrument.

11.16 Through 11.19 are Reserved.

11.20 Time is of the Essence. Time is of the essence with respect to each covenant of this Loan Agreement.

11.21 Electronic Signatures. With respect to any E-Signed Document, the following provisions apply:

- (a) Borrower represents and warrants that the intention of the natural Person signing on behalf of Borrower or Borrower Principal on each E-Signed Document was to attribute its respective signature to such E-Signed Document, and that the E-Signature represents the signer's signature to the E-Signed document.
- (b) Borrower understands and agrees that the E-Signatures on all E-Signed Documents are legally binding.
- (c) Borrower waives all rights to repudiate the authenticity or validity of any E-Signature on any E-Signed Document to the extent such repudiation is based in whole or in part on the fact that such signature is not in an original handwritten form.
- (d) Borrower agrees that the law governing E-Signatures will be the federal Electronic Signatures in Global and National Commerce Act of 2000 (15 U.S. Code, Chapter 96) (E-SIGN) and/or the Uniform Electronic Transactions Act of 1999 as promulgated by the U.S. Uniform Law Commission for consideration and enactment by the states (UETA), and that under no circumstances will E-Signatures be governed by the Uniform Computer Information Transactions Act (UCITA).

11.22 Reserved.

11.23 Subrogation. If, and to the extent that, the proceeds of the Loan, or subsequent advances under Section 9.02, are used to pay, satisfy or discharge a Prior Lien, such Loan proceeds or advances will be deemed to have been advanced by Lender at Borrower's request, and Lender will automatically, and without further action on its part, be subrogated to the rights, including Lien priority, of the owner or holder of the obligation secured by the Prior Lien, whether or not the Prior Lien is released.

11.24 Reserved.

11.25 Counterparts. This Loan Agreement may be executed in multiple counterparts, each of which will constitute an original document and all of which together will constitute one agreement.

ARTICLE XII DEFINITIONS.

The following terms, when used in this Loan Agreement (including when used in the recitals), will have the following meanings:

“Affiliate” of any Person means any other individual or entity that is, directly or indirectly, one of the following:

- (i) In Control of the applicable Person.
- (ii) Under the Control of the applicable Person.
- (iii) Under common Control with the applicable Person.

“Affiliate Transfer” is defined in Section 7.03(a)(i).

“AML Laws” means applicable federal anti-money laundering laws and regulations including 18 U.S.C. §§ 1956 and 1957, as amended.

“Approved Seller/Servicer” is defined in Section 11.11(b).

“Assignment of Management Agreement” means the Assignment of Management Agreement and Subordination of Management Fees, dated the same date as this Loan Agreement, among Borrower, Lender and Property Manager, including all schedules, riders, allonges and addenda, as such Assignment of Management Agreement may be amended from time to time, and any future Assignment of Management Agreement and Subordination of Management Fees executed in accordance with Section 6.09(d).

“Assumption Agreement” means Lender’s then-standard assumption agreement that, among other things, requires the transferee to perform all obligations of Borrower set forth in the Note, the Security Instrument, this Loan Agreement and any other Loan Document.

“Attorneys’ Fees and Costs” means all of the following:

- (i) Fees and out of pocket costs of Lender’s and Loan Servicer’s attorneys, as applicable, including costs of Lender’s and Loan Servicer’s in-house counsel, support staff costs, costs of preparing for litigation, computerized research, telephone and facsimile transmission expenses, mileage, deposition costs, postage, duplicating, process service, videotaping and similar costs and expenses.
- (ii) Costs and fees of expert witnesses, including appraisers.
- (iii) Investigatory fees.

(iv) Costs for any opinion required by Lender pursuant to the terms of the Loan Documents.

“Bankruptcy” means any of the following whether voluntary or involuntary, other than a case or proceeding initiated by Lender:

- (i) Any case under the Bankruptcy Code or any similar federal or state law for the relief of debtors.
- (ii) Any proceeding for the reorganization, recapitalization or adjustment or marshalling of a debtor’s assets or liabilities.
- (iii) Any receivership or assignment for the benefit of creditors.
- (iv) Any liquidation, dissolution, winding up, or similar proceeding, whether or not involving bankruptcy or insolvency.
- (v) Any case or proceeding similar to those set forth in (i) through (iv) of this definition.
- (vi) Any other proceeding of any type or nature in which substantially all claims of creditors are determined and any payment or distribution is or may be made on account of such claims.

“Bankruptcy Code” means the United States Bankruptcy Code, 11 U.S.C. Section 101 et seq., as amended from time to time.

“Beneficiary” means an Immediate Family Member (or an entity Controlled by an Immediate Family Member) who acquires an interest by devise, descent or operation of law due to the death of a natural person.

“Books and Records” is defined in Section 6.07(a).

“Borrower” means all Persons identified as “Borrower” in the first paragraph of this Loan Agreement, together with their successors and assigns.

“Borrower Information” is defined in Section 10.02(d).

“Borrower Principal” means any of the following:

- (i) Any general partner of Borrower (if Borrower is a partnership).
- (ii) Any manager, managing member, non-member manager, or member of the board of managers of Borrower (if Borrower is a limited liability company).
- (iii) Any settlor (grantor) of a living or revocable Trust (if Borrower is a living or revocable Trust).
- (iv) Any trustee of a Trust (if Borrower is a Trust).
- (v) Any Person (limited partner, member or shareholder) with a collective direct or indirect equity interest in Borrower equal to or greater than 25%, including any

equitable ownership interest or any beneficial interest in an Illinois land trust, an irrevocable trust, or a Delaware Statutory Trust.

- (vi) Any master tenant operating all or a substantial portion of the Mortgaged Property pursuant to a master lease structure, such as a Delaware Statutory Trust structure.
- (vii) Any Guarantor of all or any portion of the Loan or of any obligations of Borrower under the Loan Documents.
- (viii) Any person or entity that Lender (A) determined as of the Closing Date or (B) determines as of the date of any Transfer is a Borrower Principal, including any person or entity that may take Control of Borrower in accordance with the terms of this Loan Agreement, such as pursuant to a Buy-Sell Transfer.

“Borrower Proof of Loss Threshold” is the amount set forth in the Summary.

“Borrower Proof of Loss Maximum” is the amount set forth in the Summary.

“Buy-Sell Equity Investor” is the Person specified as such in the Summary.

“Buy-Sell Transfer” is defined in Section 7.03(b)(iii).

“Business Day” means any day other than a Saturday, a Sunday, or any other day on which Lender or the national banking associations are not open for business.

“Cap Agreement” means any interest rate cap agreement, interest rate swap agreement or other interest rate-hedging contract or agreement, in a form acceptable to Lender, obtained by Borrower from a Cap Provider as a requirement of any Loan Document or as a condition of Lender’s making the Loan.

“Cap Collateral” means all of the following:

- (i) The Cap Agreement.
- (ii) The Cap Payments.
- (iii) All rights of Borrower under any Cap Agreement and all rights of Borrower to all Cap Payments, including contract rights and general intangibles, whether existing now or arising after the date of this Loan Agreement.
- (iv) All rights, liens and security interests or guaranties granted by a Cap Provider or any other Person to secure or guaranty payment of any Cap Payments whether existing now or granted after the date of this Loan Agreement.

- (v) All documents, writings, books, files, records and other documents arising from or relating to any of the foregoing, whether existing now or created after the date of this Loan Agreement.
- (vi) All cash and non-cash proceeds and products of (ii) through (v) of this definition.

“Cap Payment(s)” means any and all monies payable pursuant to any Cap Agreement by a Cap Provider.

“Cap Provider” means the third-party financial institution approved by Lender that is the counterparty under any Cap Agreement or Replacement Cap Agreement.

“Capital Replacement” means the replacement of (i) those items recommended by the engineer and listed in Section VI of the Form 1105 or Form 1108 in the property condition report or physical risk report delivered in connection with the Loan, and (ii) any other items Lender may approve subject to any conditions that Lender may require, all in Lender’s sole and absolute discretion.

“Capped Interest Rate” is defined in the Note, if applicable.

“Claim” is defined in Section 10.02(f).

“Clean Site Assessment” means a current Site Assessment which (i) is dated within 90 days prior to the date of the proposed Transfer, and (ii) evidences no presence of Hazardous Materials on the Mortgaged Property and no other Prohibited Activities or Conditions with respect to the Mortgaged Property.

“Closing Date” means the date on which Lender disburses the proceeds of the Loan to or for the account of Borrower.

“Commitment Letter” means the fully executed commitment letter or early rate lock application between Lender and Borrower issued in connection with the Loan, as such document may have been modified, amended or extended.

“Completion Date” means, with respect to any Repair, the date specified for that Repair in the Repair Schedule of Work (Exhibit C), as such date may be extended by Lender in writing.

“Condemnation” is defined in Section 6.11(a).

“Co-Owner Transfer” is defined in Section 7.03(a)(iv).

“Conditional Transfer Fee” means a fee of \$25,000 that is paid (i) in addition to and not in lieu of the Transfer Processing Fee or Special Transfer Processing Fee, as applicable, and (ii) when certain Conditionally Permitted Transfers – Category III are completed.

“Conditionally Permitted Transfer” means a Transfer that will not cause an Event of Default under this Loan Agreement if certain conditions in this Loan Agreement are satisfied. The Conditionally Permitted Transfers are set forth in Section 7.03.

“Conditionally Permitted Transfer - Category I” includes the Transfers set forth in 7.03(a) for which Borrower must pay the Transfer Processing Fee.

“Conditionally Permitted Transfer - Category II” includes the Transfers set forth in 7.03(b) for which Borrower must pay the Special Transfer Processing Fee.

“Conditionally Permitted Transfer - Category III” includes the Transfers set forth in 7.03(c) for which Borrower must pay the Transfer Processing Fee and the Conditional Transfer Fee.

“Consolidation Borrower” is defined in Section 7.03(a)(v).

“Consolidation Borrower Manager” is the Person specified as such in the Summary.

“Control” means to possess, directly or indirectly, the power to manage an entity, including the authority to legally bind the entity.

“Controlling Interest” means an interest held by a Person that gives such person the legal right to Control an entity, including the interest held by any of the following:

- (i) Any general partner in a partnership.
- (ii) Any manager (whether a member manager, nonmember manager, or a manager on a board of managers) in a limited liability company.
- (iii) Any director on a board of directors for a corporation or other entity that is not a Public Company.
- (iv) Any trustee of a Trust.
- (v) The settlor of a revocable Trust.
- (vi) Any Person with a position and/or decision rights that are similar to those listed in (i) through (v).

Neither of the following alone will be deemed sufficient to constitute a Controlling Interest: (i) the ownership of the majority of the equitable or legal interests in such entity or (ii) the right to vote on “major decisions” for such entity.

“Corporate Lease” means a Lease for one or more residential units under which one entity will rent all such units from Borrower and will have the right to sublease such units to individual subtenants.

“Crowdfunding” means raising capital from marketing directed to the public at large (via the internet or otherwise) for investment in one specific property under the exemptions provided under Title III or Title IV of the Jumpstart Our Business Startups (JOBS) Act.

“Cut-off Date” is defined in the Note, if applicable.

“Default Rate” is defined in the Note.

“Defeasance” is defined in Section 11.12.

“Defeasance Closing Date” is defined in Section 11.12(b).

“Defeasance Collateral” means: (i) a Freddie Mac Debt Security, (ii) a Fannie Mae Debt Security, (iii) U.S. Treasury Obligations, or (iv) FHLB Obligations.

“Defeasance Fee” is defined in Section 11.12(c).

“Defeasance Notice” is defined in Section 11.12(b).

“Defeasance Period” is defined in the Note, if applicable.

“Departing Equity Owner” is defined in Section 7.03(c)(ii).

“Departing Manager” is defined in Section 7.03(c)(i).

“Designated Entity for Transfers” means each entity so identified in Exhibit I, and that entity’s successors and permitted assigns.

“Disclosure Document” is defined in Section 11.08.

“E-Signature” means any form of signature provided on behalf of Borrower or a Borrower Principal other than an original handwritten signature, including any type of image created in any manner (whether electronically or otherwise) which image could reasonably be interpreted as an indication of the signer’s intent to sign the document.

“E-Signed Document” means any document received by Servicer or Lender in connection with the underwriting, origination, transfer, Securitization, or servicing of the Loan, or the correction or amendment of any such document, to which an E-Signature is affixed, attached, or otherwise logically associated.

“Economic Sanctions Laws” means the foreign assets control regulations, 31 C.F.R. Chapter V, as amended, and any amending federal legislation or executive order relating thereto, as administered by OFAC.

“Economic Sanctions and AML Laws Indemnity” is defined in Section 10.02(e).

“Eligible Account” means an identifiable account which is separate from all other funds held by the holding institution that is either (i) an account or accounts maintained with the corporate trust department of a federal or state-chartered depository institution or trust company which complies with the definition of Eligible Institution, or (ii) a segregated trust account or accounts maintained with the corporate trust department of 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” means a federal or state chartered 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 Standard & Poor’s Ratings Services, a division of The McGraw-Hill Companies, Inc., P-1 by Moody’s Investors Service, Inc. and F-3 by Fitch, Inc. in the case of accounts in which funds are held for 30 days or less or, in the case of letters of credit or accounts in which funds are held for more than 30 days, the long-term unsecured debt obligations of which are rated at least “A” by Fitch, Inc. and Standard & Poor’s Ratings Services, a division of The McGraw-Hill Companies, Inc., and “A2” by Moody’s Investors Service, Inc. If at any time an Eligible Institution does not meet the required rating, the Loan Servicer must move the Eligible Account within 30 days of such event to an appropriately rated Eligible Institution.

“Environmental Inspections” is defined in Section 6.12(e).

“Environmental Permit” means any permit, license, or other authorization issued under any Hazardous Materials Law with respect to any activities or businesses conducted on or in relation to the Mortgage Property.

“ERISA” means the Employee Retirement Income Security Act of 1974, as amended.

“Event of Default” means the occurrence of any event listed in Section 9.01.

“Existing Owner” means any Person that owned a direct or indirect interest in Borrower or had a Controlling Interest in Borrower on the date of this Loan Agreement and whose name appears in the organizational chart attached as Exhibit H to this Loan Agreement.

“Extension Period” is defined in the Note, if applicable.

“Fannie Mae Debt Security” means any non-callable bond, debenture, note, or other similar debt obligation issued by the Federal National Mortgage Association.

“FHFA” means the Federal Housing Finance Agency.

"FHFA SCP List" means the Suspended Counterparty List maintained by the FHFA which is currently published at <https://www.fhfa.gov/SupervisionRegulation/LegalDocuments/suspendedcounterpartyprogram>.

"FHLB Obligations" mean direct, non-callable and non-redeemable securities issued, or fully insured as to payment, by the Federal Home Loan Bank.

"Fixtures" means all property owned by Borrower which is attached to the Land or the Improvements so as to constitute a fixture under applicable law, including: machinery, equipment, engines, boilers, incinerators and installed building materials; systems and equipment for the purpose of supplying or distributing heating, cooling, electricity, gas, water, air or light; antennas, cable, wiring and conduits used in connection with radio, television, security, fire prevention or fire detection or otherwise used to carry electronic signals; telephone systems and equipment; elevators and related machinery and equipment; fire detection, prevention and extinguishing systems and apparatus; security and access control systems and apparatus; plumbing systems; water heaters, ranges, stoves, microwave ovens, refrigerators, dishwashers, garbage disposers, washers, dryers and other appliances; light fixtures, awnings, storm windows and storm doors; pictures, screens, blinds, shades, curtains and curtain rods; mirrors; cabinets, paneling, rugs and floor and wall coverings; fences, trees and plants; swimming pools; and exercise equipment.

"Freddie Mac" means the Federal Home Loan Mortgage Corporation.

"Freddie Mac Debt Security" means any non-callable bond, debenture, note, or other similar debt obligation issued by Freddie Mac.

"Freddie Mac Web Site" means the web site of Freddie Mac, located at www.freddiemac.com.

"GAAP" means generally accepted accounting principles.

"Governmental Authority" means any board, commission, department, agency or body of any municipal, county, state or federal governmental unit, or any subdivision of any of them, that has or acquires jurisdiction over the Mortgaged Property, or the use, operation or improvement of the Mortgaged Property, or over Borrower.

"Guarantor" means the Person(s) required by Lender to guaranty all or a portion of Borrower's obligations under the Loan Documents, as set forth in the Guaranty. The required Guarantors as of the date of this Loan Agreement are set forth in Exhibit I.

"Guaranty" means the Guaranty executed by Guarantor and/or any Replacement Guaranty or supplemental guaranty executed pursuant to the terms of this Loan Agreement.

"Guarantor Not in Control of Borrower" means a Guarantor who does not Control Borrower or a Designated Entity for Transfers.

"Hazardous Materials" means petroleum and petroleum products and compounds containing them, including gasoline, diesel fuel and oil; explosives; flammable materials; radioactive

materials; polychlorinated biphenyls (PCBs) and compounds containing them; lead and lead-based paint; asbestos or asbestos containing materials in any form that is or could become friable; underground or above-ground storage tanks, whether empty or containing any substance; any substance the presence of which on the Mortgaged Property is prohibited by any Governmental Authority; any substance that requires special handling and any other material or substance now or in the future that (i) is defined as a "hazardous substance," "hazardous material," "hazardous waste," "toxic substance," "toxic pollutant," "contaminant," or "pollutant" by or within the meaning of any Hazardous Materials Law, or (ii) is regulated in any way by or within the meaning of any Hazardous Materials Law.

"Hazardous Materials Law" and **"Hazardous Materials Laws"** means any and all federal, state and local laws, ordinances, regulations and standards, rules, policies and other governmental requirements, administrative rulings and court judgments and decrees in effect now or in the future, including all amendments, that relate to Hazardous Materials or the protection of human health or the environment and apply to Borrower or to the Mortgaged Property. Hazardous Materials Laws include the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. Section 9601, et seq., the Resource Conservation and Recovery Act of 1976, 42 U.S.C. Section 6901, et seq., the Toxic Substance Control Act, 15 U.S.C. Section 2601, et seq., the Clean Water Act, 33 U.S.C. Section 1251, et seq., and the Hazardous Materials Transportation Act, 49 U.S.C. Section 5101 et seq., and their state analogs.

"HVAC System" is defined in Section 6.10(a)(v).

"Immediate Family Members" means a Person's spouse, parent, child (including stepchild), grandchild (including step-grandchild), sibling, or domestic partner.

"Imposition Reserve Deposits" is defined in Section 4.02(a).

"Impositions" is defined in Section 4.02(a).

"Improvements" means the buildings, structures and improvements now constructed or at any time in the future constructed or placed upon the Land, including any future alterations, replacements and additions.

"Indebtedness" means the principal of, interest at the fixed or variable rate set forth in the Note on, and all other amounts due at any time under, the Note, this Loan Agreement or any other Loan Document, including prepayment premiums, late charges, default interest, and advances as provided in Section 9.02 to protect the security of the Security Instrument.

"Indemnification Affiliate" is defined in Section 10.02(d).

"Indemnified Party/ies" is defined in Section 10.02(d).

"Indemnitees" is defined in Section 10.02(a).

"Index Rate" is defined in the Note, if applicable.

“Initial Deposit” means the amount set forth as the Replacement Reserve Initial Deposit in the Summary.

“Installment Due Date” is defined in the Note.

“Insurance” means Property Insurance, liability insurance and all other insurance that Lender requires Borrower to maintain pursuant to this Loan Agreement.

“Intercreditor Agreement” is defined in Section 11.11(b).

“Intrafamily Transfer” is defined in Section 7.03(a)(ii).

“Issuer” means the issuer of any Letter of Credit.

“Issuer Group” is defined in Section 10.02(d).

“Issuer Person” is defined in Section 10.02(d).

“Land” means the land described in Exhibit A.

“Leases” means all present and future leases, subleases, licenses, concessions or grants or other possessory interests now or hereafter in force, whether oral or written, covering or affecting the Mortgaged Property, or any portion of the Mortgaged Property (including proprietary leases or occupancy agreements if Borrower is a cooperative housing corporation), and all modifications, extensions or renewals.

“Lender” means the entity identified as “Lender” in the first paragraph of this Loan Agreement, or any subsequent holder of the Note.

“Lender’s Discretion” means Lender’s reasonable discretion unless otherwise set forth in this Loan Agreement.

“Letter of Credit” means any letter of credit required under the terms of this Loan Agreement or any other Loan Document.

“Lien” means any mortgage, deed of trust, deed to secure debt, security interest or other lien or encumbrance on the Mortgaged Property.

“Lien on Ownership Interest” means any security interest or other lien or encumbrance on any direct or indirect ownership interest in Borrower.

“Loan” is defined on Page 1 of this Loan Agreement.

“Loan Agreement” means this Multifamily Loan and Security Agreement.

“Loan Application” is defined in Section 5.16(a).

“Loan Documents” means the Note, the Security Instrument, this Loan Agreement, all guaranties, all indemnity agreements, all collateral agreements, UCC filings, O&M Programs, the MMP and any other documents now or in the future executed by Borrower, any Guarantor or any other Person in connection with the Loan evidenced by the Note, as such documents may be amended from time to time.

“Loan Servicer” means the entity that from time to time is designated by Lender to collect payments and deposits and receive Notices under the Note, the Security Instrument, this Loan Agreement and any other Loan Document, and otherwise to service the Loan evidenced by the Note for the benefit of Lender.

“Lockout Period,” if applicable, is defined in the Note.

“Major Building System” means one that is integral to the Improvements, providing basic services to the tenants and other occupants of the Improvements including:

- (i) Electrical (electrical lines or power upgrades, excluding fixture replacement).
- (ii) HVAC (central and unit systems, excluding replacement of in kind unit systems).
- (iii) Plumbing (supply and waste lines, excluding fixture replacement).
- (iv) Structural (foundation, framing, and all building support elements).

“Manager” or **“Managers”** means a Person who is named or designated as (i) a non-member manager, manager, managing member, or manager on a board of managers or otherwise acts in the capacity of a manager or managing member pursuant to the limited liability company agreement or similar instrument under which the limited liability company is formed or operated, or (ii) a general partner of a general or limited partnership pursuant to a partnership agreement or similar agreement under which the partnership is formed or operated.

“Manager Transfer” is defined in Section 7.03(c)(i).

“Margin” is defined in the Note, if applicable.

“Material Adverse Effect” means a significant detrimental effect on: (i) the Mortgaged Property, (ii) the business, prospects, profits, operations or condition (financial or otherwise) of Borrower, (iii) the enforceability, validity, perfection or priority of the Lien of any Loan Document, or (iv) the ability of Borrower to perform any obligations under any Loan Document.

“Maturity Date” means the Scheduled Maturity Date, as defined in the Note.

“Maximum Combined LTV” means the loan to value percentage set forth in the Summary.

“Membership Interests” are all the ownership interests in the Borrower owned by Membership Interests Seller.

“Membership Interests Seller” is defined in the Summary.

“Minimum DSCR” means, with respect to a Supplemental Loan, (i) if the Senior Indebtedness bears interest at a fixed rate, 1.25:1, or (ii) if the Senior Indebtedness bears interest at a floating rate, 1.10:1.

“Minimum Repair Disbursement Request Amount” means the amount set forth in the Summary.

“Minimum Replacement Disbursement Request Amount” means the amount set forth in the Summary.

“Minimum Occupancy” means the percentage of units at the Mortgaged Property set forth in the Summary with leases that comply with Section 5.11, Section 6.09(e)(v)(E), and Section 6.15.

“MMP” means a moisture management plan to control water intrusion and prevent the development of Mold or moisture at the Mortgaged Property throughout the term of this Loan Agreement. The requirements for an MMP are set forth in the Summary.

“Modified Non-Residential Lease” means an extension or modification of any Non-Residential Lease, which Non-Residential Lease was in existence as of the date of this Loan Agreement.

“Mold” means mold, fungus, microbial contamination or pathogenic organisms.

“Monthly Deposit” means the amount set forth as the Replacement Reserve Monthly Deposit in the Summary.

“Mortgaged Property” means all of Borrower’s present and future right, title and interest in and to all of the following:

- (i) The Land, or, if Borrower’s interest in the Land is pursuant to a Ground Lease, the Ground Lease and the Leasehold Estate.
- (ii) The Improvements.
- (iii) The Fixtures.
- (iv) The Personalty.
- (v) All current and future rights, including air rights, development rights, zoning rights and other similar rights or interests, easements, tenements, rights of way, strips and gores of land, streets, alleys, roads, sewer rights, waters, watercourses and appurtenances related to or benefiting the Land or the Improvements, or both, and

all rights-of-way, streets, alleys and roads which may have been or may in the future be vacated.

- (vi) All proceeds paid or to be paid by any insurer of the Land, the Improvements, the Fixtures, the Personalty or any other part of the Mortgaged Property, whether or not Borrower obtained the Insurance pursuant to Lender's requirement.
- (vii) All awards, payments and other compensation made or to be made by any municipal, state or federal authority with respect to the Land or the Leasehold Estate, as applicable, the Improvements, the Fixtures, the Personalty or any other part of the Mortgaged Property, including any awards or settlements resulting from Condemnation proceedings or the total or partial taking of the Land, the Improvements, the Fixtures, the Personalty or any other part of the Mortgaged Property under the power of eminent domain or otherwise and including any conveyance in lieu thereof.
- (viii) All contracts, options and other agreements for the sale of the Land, or the Leasehold Estate, as applicable, the Improvements, the Fixtures, the Personalty or any other part of the Mortgaged Property entered into by Borrower now or in the future, including cash or securities deposited to secure performance by parties of their obligations.
- (ix) All proceeds from the conversion, voluntary or involuntary, of any of the items described in items (i) through (viii) of this definition, into cash or liquidated claims, and the right to collect such proceeds.
- (x) All Rents and Leases.
- (xi) All earnings, royalties, accounts receivable, issues and profits from the Land, the Improvements or any other part of the Mortgaged Property, and all undisbursed proceeds of the Loan.
- (xii) All Imposition Reserve Deposits.
- (xiii) All refunds or rebates of Impositions by any Governmental Authority or insurance company (other than refunds applicable to periods before the real property tax year in which this Loan Agreement is dated).
- (xiv) All tenant security deposits which have not been forfeited by any tenant under any Lease and any bond or other security in lieu of such deposits.
- (xv) All names under or by which any of the Mortgaged Property may be operated or known, and all trademarks, trade names and goodwill relating to any of the Mortgaged Property.

- (xvi) If required by the terms of Section 4.05 or elsewhere in this Loan Agreement, all rights under any Letter of Credit and the Proceeds, as such Proceeds may increase or decrease from time to time.
- (xvii) If the Note provides for interest to accrue at a floating or variable rate and there is a Cap Agreement, the Cap Collateral.
- (xviii) All other assets of Borrower, whether now owned or acquired after the date of this Loan Agreement.
- (xix) through (xxv) are Reserved.

“New Non-Residential Lease” is any Non-Residential Lease not in existence as of the date of this Loan Agreement.

“Non-Controlling Interest” is an ownership interest in Borrower or in a Designated Entity for Transfers that is not a Controlling Interest, including (i) any limited partnership interest in a partnership, (ii) any non-managing interest in a limited liability company, or (iii) beneficial interests in a Trust that is not a revocable Trust.

“Non-Residential Lease” is a Lease of a portion of the Mortgaged Property to be used for non-residential purposes.

“Non-U.S. Equity Holder” means any Person with a collective equity interest (whether direct or indirect) of 10% or more in Borrower, and which is either (a) an individual who is not a citizen of the United States, or (b) an entity formed outside the United States.

“Note” means the Multifamily Note or Notes (including any Amended and Restated Note(s), Consolidated, Amended and Restated Note(s), or Extended and Restated Note(s)) executed by Borrower in favor of Lender and dated as of the date of this Loan Agreement, including all schedules, riders, allonges and addenda, as such Multifamily Note(s) may be amended, modified and/or restated from time to time.

“Notice” or **“Notices”** means all notices, demands and other communication required under the Loan Documents, provided in accordance with the requirements of Section 11.03.

“Notice of Death” is defined in Section 7.03(b)(i).

“O&M Program” is defined in Section 6.12(c) and if applicable, consists of the O&M Programs set forth in the Summary.

“OFAC” means the U.S. Department of the Treasury’s Office of Foreign Assets Control.

“OFAC Lists” means either one of the following:

- (i) The OFAC Specially Designated Nationals and Blocked Persons List.

- (ii) The OFAC Consolidated Sanctions List.

“Permitted Transfer” means a Transfer that will not cause an Event of Default under this Loan Agreement. The Permitted Transfers are set forth in Section 7.02.

“Person” means any natural person, sole proprietorship, corporation, general partnership, limited partnership, limited liability company, limited liability partnership, limited liability limited partnership, joint venture, association, joint stock company, bank, trust, estate, unincorporated organization, any federal, state, county or municipal government (or any agency or political subdivision thereof), endowment fund or any other form of entity.

“Personalty” means all of the following:

- (i) Accounts (including deposit accounts) of Borrower related to the Mortgaged Property.
- (ii) Equipment and inventory owned by Borrower, which are used now or in the future in connection with the ownership, management or operation of the Land or Improvements or are located on the Land or Improvements, including furniture, furnishings, machinery, building materials, goods, supplies, tools, books, records (whether in written or electronic form) and computer equipment (hardware and software).
- (iii) Other tangible personal property owned by Borrower which is used now or in the future in connection with the ownership, management or operation of the Land or Improvements or is located on the Land or in the Improvements, including ranges, stoves, microwave ovens, refrigerators, dishwashers, garbage disposers, washers, dryers and other appliances (other than Fixtures).
- (iv) Any operating agreements relating to the Land or the Improvements.
- (v) Any surveys, plans and specifications and contracts for architectural, engineering and construction services relating to the Land or the Improvements.
- (vi) All other intangible property, general intangibles and rights relating to the operation of, or used in connection with, the Land or the Improvements, including all governmental permits relating to any activities on the Land and including subsidy or similar payments received from any sources, including a Governmental Authority.
- (vii) Any rights of Borrower in or under any Letter of Credit.

“Pledge Agreement” is defined in Section 11.12(f)(iii).

“Preferred Equity Control Take-Over Transfer” is defined in Section 7.03(b)(ii).

“Preferred Equity Investor” is the Person specified as such in the Summary.

“Prepayment Premium Period” is defined in the Note.

“Previously Underwritten Person” is the Person specified as such in the Summary.

“Prior Borrower Principal” is the Person specified as such in the Summary.

“Prior Lien” means a pre-existing mortgage, deed of trust or other Lien encumbering the Mortgaged Property.

“Priority Repair Reserve Deposit” means the amount set forth in the Summary.

“Proceeds” means the cash obtained by a draw on a Letter of Credit.

“Prohibited Activity or Condition” means each of the following:

- (i) The presence, use, generation, release, treatment, processing, storage (including storage in above-ground and underground storage tanks), handling or disposal of any Hazardous Materials on or under the Mortgaged Property.
- (ii) The transportation of any Hazardous Materials to, from or across the Mortgaged Property.
- (iii) Any occurrence or condition on the Mortgaged Property, which occurrence or condition is or may be in violation of Hazardous Materials Laws.
- (iv) Any violation of or noncompliance with the terms of any Environmental Permit with respect to the Mortgaged Property.
- (v) Any violation or noncompliance with the terms of any O&M Program.

However, the term “Prohibited Activity or Condition” expressly excludes lawful conditions permitted by an O&M Program or the safe and lawful use and storage of quantities of: (i) pre-packaged supplies, cleaning materials and petroleum products customarily used in the operation and maintenance of comparable multifamily properties, (ii) cleaning materials, personal grooming items and other items sold in pre-packaged containers for consumer use and used by tenants and occupants of residential units in the Mortgaged Property, and (iii) petroleum products used in the operation and maintenance of motor vehicles from time to time located on the Mortgaged Property’s parking areas, so long as all of the foregoing are used, stored, handled, transported and disposed of in compliance with Hazardous Materials Laws.

“Prohibited Parties List” means any one or more of the (i) OFAC Lists or (ii) FHFA SCP List.

“Prohibited Transfer” means a Transfer that will constitute an Event of Default under this Loan Agreement. The Prohibited Transfers are set forth in Section 7.01.

“Property Improvement Alterations” means alterations to the Improvements existing at or upon the Mortgaged Property as of the date of this Loan Agreement, which are being made to renovate or upgrade the Mortgaged Property and are not otherwise permitted under Section 6.09(e). Repairs, Capital Replacements, Restoration or other work required to be performed at the Mortgaged Property pursuant to Sections 6.10 or 6.11 will not constitute Property Improvement Alterations.

“Property Improvement Notice” means a Notice to Lender that Borrower intends to begin the Property Improvement Alterations identified in the Property Improvement Notice.

“Property Insurance” is defined in Section 6.10(a).

“Property Jurisdiction” means the jurisdiction in which the Land is located.

“Property Manager” means the Person identified as such in the Summary.

“Property Seller” is defined in Section 5.24.

“Public Company” means (i) a company whose shares are traded on a United States public exchange or a United States over-the-counter exchange with no control over who purchases its shares after the initial public offering, or (ii) a pension fund that is controlled by a United States municipal, county, state, or federal governmental unit or any subsidiary thereof.

“Rate Cap Agreement Reserve Fund” means the account established pursuant to Section 4.07, if applicable, to pay for the cost of a Replacement Cap Agreement.

“Rating Agencies” means Fitch, Inc., Moody’s Investors Service, Inc., or Standard & Poor’s Ratings Services, a division of The McGraw-Hill Companies, Inc., or any successor entity of the foregoing, or any other nationally recognized statistical rating organization.

“Released Guarantor” is defined in Section 7.03(c)(iii).

“Release of Guarantor Transfer” is defined in Section 7.03(c)(iii).

“Release Instruments” is defined in Section 11.12(f).

“Remedial Work” is defined in Section 6.12(f).

“REMIC” means a “real estate mortgage investment conduit” within the meaning of Section 860D of the Tax Code.

“Rent(s)” means all rents (whether from residential or non-residential space), revenues and other income of the Land or the Improvements, parking fees, laundry and vending machine income and fees and charges for food, health care and other services provided at the Mortgaged Property,

whether now due, past due or to become due, and deposits forfeited by tenants, and, if Borrower is a cooperative housing corporation or association, maintenance fees, charges or assessments payable by shareholders or residents under proprietary leases or occupancy agreements, whether now due, past due or to become due.

“Rent Schedule” means a written schedule for the Mortgaged Property showing the name of each tenant, and for each tenant, the space occupied, the lease expiration date, the rent payable for the current month, the date through which rent has been paid, and any related information requested by Lender.

“Repair Disbursement Request” means Borrower’s written request to Lender in the form attached as Exhibit D for the disbursement of money from the Repair Reserve Fund pursuant to Article IV.

“Repair Reserve Deposit” means with respect to any Repairs the cash deposit into the Repair Reserve Fund to assure completion of such Repairs.

“Repair Reserve Disbursement Period” means the interval between disbursements from the Repair Reserve Fund, which is set forth in the Summary.

“Repair Reserve Fund” means the account which may be established by this Loan Agreement into which the Priority Repair Reserve Deposit, Radon Repair Reserve Deposit, Green Repair Reserve Deposit, Stab-Lok Repair Reserve Deposit, and any other Repair Reserve Deposit, as applicable, are deposited.

“Repair Schedule of Work” means the Repair Schedule of Work attached as Exhibit C (as amended) pursuant to the terms of this Loan Agreement.

“Repairs” means the repairs to be made to the Mortgaged Property, as described on the Repair Schedule of Work or as otherwise required by Lender in accordance with this Loan Agreement, including any required Radon Screening, Radon Testing, Radon Remediation, and/or Green Improvements.

“Replacement Cap Agreement” means any Cap Agreement satisfying the provisions of this Loan Agreement, using documentation approved by Lender, and purchased by Borrower to replace any initial Cap Agreement or subsequent Cap Agreement.

“Replacement Cost” means the estimated replacement cost of the Improvements, Fixtures, and Personalty (or, when used in reference to a property that is not the Mortgaged Property, all improvements, fixtures, and personalty located on such property), excluding any deduction for depreciation, all as determined annually by Borrower using customary methodology and sources of information acceptable to Lender in Lender’s Discretion. Replacement Cost will not include the cost to reconstruct foundations or site improvements, such as driveways, parking lots, sidewalks, and landscaping.

“Replacement Guarantor” means a Person acceptable to Lender that executes a Guaranty in connection with (i) a Transfer, (ii) a Guarantor Status Event, (iii) a Guarantor Bankruptcy, or (iv) the death of a Guarantor, and that meets the Replacement Guarantor Net Worth and Liquidity Requirements.

“Replacement Guaranty” means a Guaranty executed by a Replacement Guarantor in a form acceptable to Lender and in substantially the same form as the Guaranty executed on the same date as this Loan Agreement. If the Replacement Guarantor is an entity, the Replacement Guarantor’s Guaranty will be modified to include, at Replacement Guarantor’s option, either Lender’s current form of the Rider to Guaranty – Material Adverse Change, or Lender’s current form of the Rider to Guaranty – Minimum Net Worth/Liquidity.

“Replacement Guarantor Net Worth and Liquidity Requirements” means that all Guarantors (including any Replacement Guarantors) collectively satisfy the following requirements:

- (a) A net worth of at least:
 - (i) \$5,000,000 for Loans with an unpaid principal balance of the Loan at the time of the applicable Transfer of less than \$15,000,000.
 - (ii) \$10,000,000 for Loans with an unpaid principal balance of the Loan at the time of the applicable Transfer of at least \$15,000,000 and less than \$30,000,000.
 - (iii) \$15,000,000 for Loans with an unpaid principal balance of the Loan at the time of the applicable Transfer of at least \$30,000,000 and less than \$50,000,000.
 - (iv) 30% of the unpaid principal balance of the Loan at the time of the applicable Transfer for Loans of at least \$50,000,000.
- (b) Liquidity equal to the greater of 10% of the unpaid principal balance of the Loan at the time of the applicable Transfer or one year of debt service unless another amount is set forth in this Loan Agreement. If the Loan has a floating interest rate, then the liquidity requirement will be 10% of the unpaid principal balance. If the Loan is an interest-only or partial interest only loan, then Lender will calculate one year of debt service using the amortizing debt service.

“Replacement Reserve Deposit” means the Initial Deposit, the Monthly Deposit and/or the Revised Monthly Deposit, as appropriate.

“Replacement Reserve Disbursement Period” means the interval between disbursements from the Replacement Reserve Fund, which interval will be no shorter than the period set forth in the Summary.

“Replacement Reserve Fund” means the account established pursuant to this Loan Agreement to defray the costs of Capital Replacements.

“Required Co-Owner” means a Person that must maintain at least the Required Co-Owner Interest after a Co-Owner Transfer, as set forth in the Summary.

“Required Co-Owner Interest” means the percentage of direct interest in the Mortgaged Property that the Required Co-Owner must maintain after a Co-Owner Transfer, as set forth in the Summary.

“Required Equity Owner” means a Person that must maintain at least the Required Equity Ownership Interest, as set forth in the Summary.

“Required Equity Owner Transfer” is defined in Section 7.03(c)(ii).

“Required Equity Ownership Interest” means the minimum percentage of direct or indirect interest in Borrower that the Required Equity Owner must maintain, as set forth in the Summary.

“Reserve Fund” means each account established for Imposition Reserve Deposits, the Replacement Reserve Fund, the Repair Reserve Fund (if any), the Rate Cap Agreement Reserve Fund (if any), the Rental Achievement Reserve Fund (if any), and any other account established pursuant to Article IV of this Loan Agreement.

“Restoration” is defined in Section 6.10(j)(i).

“Revised Monthly Deposit” means the adjusted amount per month that Lender determines Borrower must deposit in the Replacement Reserve Fund following any adjustment by Lender pursuant to Section 4.04(c).

“Scheduled Debt Payments” is defined in Section 11.12(g)(i)(B).

“Second Beneficiary” is defined in Section 7.03(b)(i).

“Secondary Market Transaction” means any of the following:

- (i) Any sale or assignment of this Loan Agreement, the Note and the other Loan Documents to one or more investors as a whole loan.
- (ii) A participation of the Loan to one or more investors.
- (iii) Any deposit of this Loan Agreement, the Note and the other Loan Documents with a trust or other entity which may sell certificates or other instruments to investors evidencing an ownership interest in the assets of such trust or other entity.
- (iv) Any other sale, assignment or transfer of the Loan or any interest in the Loan to one or more investors.

“Securitization” means when the Note or any portion of the Note is assigned to a REMIC or grantor trust.

“Securitization Indemnification” is defined in Section 10.02(d).

“Security Instrument” means the mortgage, deed of trust, deed to secure debt or other similar security instrument encumbering the Mortgaged Property and securing Borrower’s performance of its Loan obligations, including Borrower’s obligations under the Note and this Loan Agreement (including any Amended and Restated Security Instrument, Consolidation, Modification and Extension Agreement, Extension and Modification Agreement or similar agreement or instrument amending and restating existing security instruments).

“Senior Indebtedness” means, for a Supplemental Loan, if any, the Indebtedness evidenced by each Senior Note and secured by each Senior Instrument for the benefit of each Senior Lender.

“Senior Instrument” means, for a Supplemental Loan, each Senior Instrument identified in the Summary. If the Loan is a first lien on the Mortgaged Property, the term “Senior Instrument” is not applicable.

“Senior Lender” means each holder of a Senior Note.

“Senior Loan Documents” means, for a Supplemental Loan, if any, all documents relating to each loan evidenced by a Senior Note.

“Senior Note” means, for a Supplemental Loan, if any, each Multifamily Note secured by a Senior Instrument.

“Servicing Arrangement” is defined in Section 11.06(b).

“Settlement Notice” is defined in Section 7.03(b)(i).

“Single Purpose Entity” is defined in Section 6.13(a).

“Site Assessment” means an environmental assessment report for the Mortgaged Property prepared at Borrower’s expense by a qualified environmental consultant engaged by Borrower, or by Lender on behalf of Borrower, and approved by Lender, and in a manner reasonably satisfactory to Lender, based upon an investigation relating to and making appropriate inquiries to evaluate the risks associated with Mold and any existence of Hazardous Materials on or about the Mortgaged Property, and the past or present discharge, disposal, release or escape of any such substances, all consistent with the most current version of the ASTM 1527 standard (or any successor standard published by ASTM) and good customary and commercial practice.

“SPE Equity Owner” if applicable, means the Person identified as such in the Summary. If an SPE Equity Owner is not identified in the Summary then Borrower will not be required to maintain

an SPE Equity Owner in its organizational structure during the term of the Loan and all references to SPE Equity Owner in this Loan Agreement and in the Note will be of no force or effect.

“Special Transfer Processing Fee” means a nonrefundable fee of \$25,000 for Lender’s review of (i) a proposed or completed Conditionally Permitted Transfer – Category II or (ii) certain other actions or events relating to Guarantor set forth in Article VIII.

“Status Event” means any of the following events have occurred in connection with an entity:

- (i) Termination of its existence.
- (ii) Merger or consolidation of the entity with another entity (whether or not the entity is the surviving entity).
- (iii) Surrender of its charter.
- (iv) Dissolution of the entity.
- (v) Liquidation of its assets.
- (vi) Division of the entity.
- (vii) Reconstitution of the entity into another entity.
- (viii) The filing of any document with the applicable governmental authority to effect any action listed in (i) through (vii) of this definition.

“Successor Borrower” is defined in Section 11.12(b).

“Summary” means the Summary of Loan Terms.

“Supplemental Indebtedness” the Indebtedness evidenced by the Supplemental Note(s) and secured by the Supplemental Instrument(s) for the benefit of Supplemental Lender(s), if any.

“Supplemental Instrument” means, for each Supplemental Loan (whether one or more), if any, the Security Instrument executed to secure the Supplemental Note for that Supplemental Loan.

“Supplemental Lender” means, for each Supplemental Loan (whether one or more), if any, the lender named in the Supplemental Instrument for that Supplemental Loan and its successors and/or assigns.

“Supplemental Loan” means any loan that is subordinate to the Senior Indebtedness.

“Supplemental Loan Documents” means, for each Supplemental Loan (whether one or more), if any, all documents relating to the loan evidenced by the Supplemental Note for that Supplemental Loan.

“Supplemental Mortgage Product” is defined in Section 11.11(a).

“Supplemental Note” means, for each Supplemental Loan (whether one or more), if any, the Multifamily Note secured by the Supplemental Instrument for that Supplemental Loan.

“Tax Code” means the Internal Revenue Code of the United States, 26 U.S.C. Section 1 et seq., as amended from time to time.

“Taxes” means all taxes, assessments, vault rentals and other charges, if any, whether general, special or otherwise, including all assessments for schools, public betterments and general or local improvements, which are levied, assessed or imposed by any public authority or quasi-public authority, and which, if not paid, will become a Lien on the Land or the Improvements.

“Tenancy in Common Agreement” means a written agreement that sets out the rights and responsibilities of each Co-Owner Borrower.

“TIC Roll-up Transfer” is defined in Section 7.03(a)(v).

“Title Policy” means the title policy issued to and accepted by Lender contemporaneously with the execution of this Loan Agreement insuring Lender’s interest in the Mortgaged Property.

“Total Insurable Value” means the sum of the Replacement Cost, business income/rental value Insurance and the value of any business personal property.

“Transfer” means any of the following:

- (i) A sale, assignment, transfer or other disposition or divestment of any legal or equitable direct or indirect interest in Borrower, any Designated Entity for Transfer or the Mortgaged Property (whether voluntary, involuntary or by operation of law).
- (ii) The granting, creating or attachment of a Lien, encumbrance or security interest (whether voluntary, involuntary or by operation of law).
- (iii) The issuance or other creation of a legal or equitable ownership interest in a legal entity, including a partnership interest, interest in a limited liability company or corporate stock.
- (iv) The withdrawal, retirement, removal or involuntary resignation of a partner in a partnership or a member or Manager in a limited liability company.
- (v) The addition, appointment, substitution or removal of a manager on a board of managers or a director on a board of directors.
- (vi) The termination or revocation of a trust, or the addition, removal, appointment or substitution of a trustee of a trust.

For purposes of defining the term “Transfer,” the term “partnership” means a general partnership, a limited partnership, a joint venture, a limited liability partnership, or a limited liability limited partnership and the term “partner” means a general partner, a limited partner, or a joint venturer.

“**Transfer**” does not include any of the following:

- (i) A conveyance of the Mortgaged Property at a judicial or non-judicial foreclosure sale under the Security Instrument.
- (ii) The Mortgaged Property becoming part of a bankruptcy estate by operation of law under the Bankruptcy Code.
- (iii) The filing or recording of a Lien against the Mortgaged Property for local taxes and/or assessments not then due and payable.

“**Transfer and Assumption Agreement**” is defined in Section 11.12(f)(iv).

“**Transfer of a Controlling Interest Due to Death**” is defined in Section 7.03(b)(i).

“**Transfer Fee**” means a fee paid when the Transfer is completed. Unless otherwise specified, the Transfer Fee will be equal to the lesser of the following:

- (i) 1% of the outstanding principal balance of the Indebtedness as of the date of the Transfer.
- (ii) \$250,000.

“**Transfer Processing Fee**” means a nonrefundable fee of \$15,000 for Lender’s review of a proposed or completed Transfer.

“**Transfer to Previously Underwritten Person(s)**” is defined in Section 7.03(a)(iii).

“**Trust**” means a legal entity in which a trustee agrees to hold and manage certain assets or property of the trustor for the benefit of the beneficiary(ies). “Trust” includes a revocable trust, irrevocable trust, testamentary trust, and Delaware Statutory Trust.

“**U.S. Treasury Obligations**” means direct, non-callable and non-redeemable securities issued, or fully insured as to payment, by the United States of America.

“**UCC Collateral**” is defined in Section 3.03.

“**Underwriter Group**” is defined in Section 10.02(d).

“**Uniform Commercial Code**” means the Uniform Commercial Code as promulgated in the applicable jurisdiction.

“Windstorm Coverage” is defined in Section 6.10(a)(iv).

ARTICLE XIII INCORPORATION OF ATTACHED RIDERS.

The Riders listed in the Summary are attached to and incorporated into this Loan Agreement.

ARTICLE XIV INCORPORATION OF ATTACHED EXHIBITS.

The Exhibits listed in the Summary, if marked with an “X” in the space provided, are attached to this Loan Agreement.

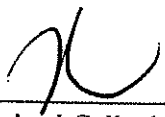
ARTICLE XV RESERVED.

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SIGNATURES ON FOLLOWING PAGES**

BORROWER:

VE LAKEVIEW LP, a
Georgia limited partnership

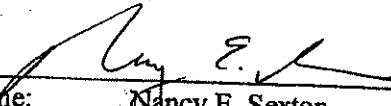
By: **VE LAKEVIEW GP LLC, a**
Georgia limited liability company, its General Partner

By: 
Name: Michael Callaghan
Title: President

SIGNATURES CONTINUE ON FOLLOWING PAGE

LENDER:

**WALKER & DUNLOP, LLC, a
Delaware limited liability company**

By: 
Name: Nancy E. Sexton
Title: Senior Vice President

RIDER TO MULTIFAMILY LOAN AND SECURITY AGREEMENT

REGULATORY AGREEMENT

(Revised 6-15-2021)

The following changes are made to the Loan Agreement which precedes this Rider:

A. Section 5.46 is deleted and replaced with the following:

5.46 Regulatory Agreement. Borrower represents and warrants that all of the following are correct:

- (a) No Default. Borrower is in compliance with all requirements of the Regulatory Agreement. Borrower has not received any notice from the Regulatory Agreement Agency that Borrower is in default under the Regulatory Agreement.
- (b) Accurate Copy. The copy of the Regulatory Agreement that Borrower has provided to Lender includes all amendments, schedules and exhibits and is complete and accurate in all respects.
- (c) Termination Date. The Regulatory Agreement terminates on the Regulatory Agreement Termination Date.
- (d) Intentionally Omitted

B. Section 6.36 is deleted and replaced with the following:

6.36 Regulatory Agreement. Lender acknowledges that the Mortgaged Property is subject to the Regulatory Agreement.

- (a) Annual Compliance. Borrower will submit to Lender on an annual basis evidence that the Mortgaged Property is in ongoing compliance with all income, occupancy and rent restrictions under the Regulatory Agreement. Such submissions to Lender will be made contemporaneously with the submission of reports to the Regulatory Agreement Agency as required under the Regulatory Agreement, if applicable.
- (b) Reporting Requirements. Borrower will promptly provide Lender with a copy of any notice Borrower receives alleging that Borrower is in breach of the Regulatory Agreement. Borrower will provide Lender with Notice upon termination of the Regulatory Agreement.

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Rider to Multifamily Loan and Security Agreement
Regulatory Agreement

- (c) Lender's Consent. Borrower will obtain Lender's prior approval for any amendment to or modification of the Regulatory Agreement.

C. Section 9.01(jj) is deleted and replaced with the following:

- (jj) Any default, event of default, or breach under the Regulatory Agreement (however such terms may be defined) which continues beyond the applicable cure period, if any.

D. The following definitions are added to Article XII:

"Regulatory Agreement" means a **Use Agreement for Multifamily Projects Participating in the Mark-To-Market Program Under the Multifamily Assisted Housing Reform and Affordability Act of 1997 dated July 1, 2001** by and between Borrower's predecessor-in-interest and Secretary of Housing and Urban Development and recorded in the applicable land records of the Property Jurisdiction as Book 235, Page 423 in the Office of the Clerk of the Superior Court of Peach County, Georgia.

"Regulatory Agreement Agency" means **Department of Housing and Urban Development ("HUD")**, acting through any authorized representative, or any other Governmental Authority or quasi-governmental authority entitled to enforce the provisions of the Regulatory Agreement.

"Regulatory Agreement Termination Date" means **July 31, 2031**.

RIDER TO MULTIFAMILY LOAN AND SECURITY AGREEMENT

SECTION 8 HOUSING ASSISTANCE PAYMENTS CONTRACT

(Revised 10-1-2020)

The following changes are made to the Loan Agreement which precedes this Rider:

A. Section 3.07 is deleted and replaced with the following:

3.07 Section 8 Housing Assistance Payments Contract.

- (a) The Mortgaged Property is the subject of the Current HAP Contract. The Borrower conveys, pledges, transfers and grants to Lender a security interest pursuant to the Uniform Commercial Code of the Property Jurisdiction or any other applicable law in and to the HAP Contract Rights.
- (b) If an Event of Default has occurred and is continuing, Lender may direct the Contract Administrator to remit future Housing Assistance Payments to Lender. Borrower consents to all such remittances. Lender will apply to the Indebtedness any Housing Assistance Payments that it receives.

B. Section 5.47 is deleted and replaced with the following:

5.47 Representations Regarding HAP Contract. Borrower represents and warrants that all of the following are true:

- (a) The copy of the HAP Contract it has provided to Lender includes all amendments, schedules and exhibits and is complete and accurate in all respects.
- (b) Neither the Borrower nor any of its principals or Affiliates (as defined in 24 C.F.R. Section 200.215) is subject to or has received any notice of any debarment, suspension or other administrative or investigative proceeding initiated by HUD or any other federal or state government agency.
- (c) Borrower has not received any notice from HUD indicating that any of the following are true:
 - (i) HUD may not or will not renew the HAP Contract upon its expiration.
 - (ii) HUD may or will terminate the HAP Contract before its expiration.

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**Rider to Multifamily Loan and Security Agreement
Housing Assistance Payments Contract**

- (iii) HUD may or will reduce or has reduced the number of units subject to the HAP Contract.

C. Section 6.37 is deleted and replaced with the following:

6.37 Compliance With HAP Contract.

- (a) Borrower will file with the Contract Administrator on a timely basis all documentation necessary to obtain timely monthly Housing Assistance Payments under the HAP Contract.
- (b) Borrower will file with the Contract Administrator a request for each annual rent increase under the HAP Contract, at such time as will permit the implementation of the increase at the earliest possible date. Borrower will promptly implement each approved annual rent increase when it becomes permissible.
- (c) Borrower will comply fully with all of its obligations under the HAP Contract. Borrower will promptly provide Lender a copy of any notice Borrower receives alleging that Borrower is in breach of the HAP Contract or that the Mortgaged Property is not being maintained as required by the HAP Contract. Borrower also will promptly provide Lender copies of any inspection or compliance reports received from the Contract Administrator.
- (d) Without limiting the generality of subsection (c), Borrower will comply fully with provisions of the HAP Contract that require the consent of the Contract Administrator for any Transfer of the Mortgaged Property, any interest in the Mortgaged Property or any interest in the Borrower entity, even if the consent of Lender to such Transfer is not required under this Loan Agreement. Any consent by Lender to a Transfer under Article VII will be in addition to, and not in lieu of, any consent by the Contract Administrator that is required by the HAP Contract.
- (e) Borrower will avail itself of all rights and opportunities to renew or extend the HAP Contract. Except for renewals or extensions of the term of the HAP Contract and amendments solely for the purpose of implementing rent increases, Borrower will not amend or terminate the HAP Contract without the prior written consent of Lender. Borrower will provide Lender a complete and accurate copy of each amendment, renewal or extension.
- (f) Borrower will provide Lender copies of all audited financial statements that it provides to the Contract Administrator under the HAP Contract.

D. Section 9.01(kk) is deleted and replaced with the following:

(kk) Any Transfer of: (i) the Property, (ii) any interest in the Property, or (iii) any interest in the Borrower without any prior consent of the Contract Administrator that is required by the HAP Contract.

E. The following definitions are added to Article XII:

“Contract Administrator” is Department of Housing and Urban Development.

“Current HAP Contract” means the Section 8 Housing Assistance Payments Contract dated August 1, 2021 between Borrower and the Contract Administrator.

“HAP Contract” means the Current HAP Contract and any subsequent Section 8 Housing Assistance Payments Contracts entered into between Borrower and the Contract Administrator and affecting the Mortgaged Property.

“HAP Contract Rights” means the right to Housing Assistance Payments and all other interests and rights of the Borrower in and under the HAP Contract.

“Housing Assistance Payments” means payments received under the HAP Contract.

“Housing Assistance Payments Contract” is a contract with HUD or the Contract Administrator for the payment of Housing Assistance Payments.

“HUD” means the Department of Housing and Urban Development.

F. The following definitions in Article XII are modified as follows:

The **“Mortgaged Property”** granted, conveyed and assigned to Lender will include the Borrower’s right to receive Housing Assistance Payments under the Current HAP Contract and any subsequent Housing Assistance Payments Contracts and any and all other HAP Contract Rights and all amendments, renewals and extensions of the HAP Contract.

The **“UCC Collateral”** will include the Borrower’s right to receive Housing Assistance Payments under the Current HAP Contract and any subsequent Housing Assistance Payments Contracts and any and all HAP Contract Rights and all amendments, renewals and extensions of the HAP Contract.

RIDER TO MULTIFAMILY LOAN AND SECURITY AGREEMENT

**SINGLE PURPOSE ENTITY BORROWER
(LOANS \$20,000,000 OR LESS)**

(Revised 10-1-2020)

The following changes are made to the Loan Agreement which precedes this Rider:

A. Section 6.02 is deleted and replaced with the following:

6.02 Compliance with Organizational Documents. Borrower will at all times comply with all laws, regulations and requirements of any Governmental Authority relating to Borrower's formation, continued existence and good standing in its state of formation and, if different, in the Property Jurisdiction. Borrower will at all times comply with its organizational documents, including its partnership agreement (if Borrower is a partnership), its by-laws (if Borrower is a corporation or housing cooperative corporation or association) or its operating agreement (if Borrower is a limited liability company or tenancy-in-common). Borrower will do all things necessary to observe organizational formalities and will not merge or consolidate with any other Person. Borrower will not amend or restate its organizational documents if such change would cause the provisions set forth in those organizational documents not to comply with the requirements set forth in this Section 6.02 or 6.13. If Borrower is a housing cooperative corporation or association, Borrower will at all times maintain its status as a "cooperative housing corporation" as such term is defined in Section 216(b) of the Internal Revenue Code of 1986, as amended, or any successor statute thereto.

B. Section 6.13 is deleted and replaced with the following:

6.13 Single Purpose Entity Requirements.

(a) Single Purpose Entity Requirements. Until the Indebtedness is paid in full, each Borrower and any SPE Equity Owner will remain a "**Single Purpose Entity**," which means at all times since its formation and thereafter it will satisfy each of the following conditions:

(i) It will not engage in any business or activity, other than the ownership, operation and maintenance of the Mortgaged Property and activities incidental thereto.

(ii) It will not acquire, own, hold, lease, operate, manage, maintain, develop or improve any assets other than the Mortgaged Property and such Personalty as may be necessary for the operation of the Mortgaged Property and will conduct and operate its business as presently conducted and operated.

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Rider to Multifamily Loan and Security Agreement
Single Purpose Entity Borrower (Loans \$20,000,000 or Less)

- (iii) Reserved.
- (iv) Reserved.
- (v) Reserved.
- (vi) Reserved.
- (vii) Reserved.
- (viii) Reserved.
- (ix) It will not commingle its assets with the assets of any other Person and will hold all of its assets in its own name.
- (x) It will not acquire obligations or securities of its partners, members, shareholders or Affiliates or incur any debt, secured or unsecured, direct or contingent (including guaranteeing any obligation), other than the following:
 - (A) The Indebtedness and any further indebtedness as described in Section 11.11 with regard to Supplemental Instruments.
 - (B) Customary unsecured trade payables incurred in the ordinary course of owning and operating the Mortgaged Property provided the same are not evidenced by a promissory note, do not exceed, in the aggregate, at any time a maximum amount of 2% of the original principal amount of the Indebtedness and are paid within 60 days of the date incurred.
 - (C) through (I) are reserved.
- (xi) It will file its own tax returns and maintain its records, books of account, bank accounts, financial statements, accounting records and other entity documents separate and apart from those of any other Person and will not list its assets as assets on the financial statement of any other Person; provided, however, that (A) Borrower will not be required to file its own tax returns if (1) it is treated as a "disregarded entity" for tax purposes and is not required to file tax returns under applicable law, or (2) it is required by applicable law to file consolidated tax returns, and (B) Borrower's assets may be included in a consolidated financial statement of its Affiliate provided that (1) appropriate notation will be made on such consolidated financial statements to indicate the

separateness of Borrower from such Affiliate and to indicate that Borrower's assets and credit are not available to satisfy the debts and other obligations of such Affiliate or any other Person, and (2) such assets will also be listed on Borrower's own separate balance sheet.

- (xii) Except for capital contributions or capital distributions permitted under the terms and conditions of its organizational documents, it will only enter into any contract or agreement with any general partner, member, shareholder, principal or Affiliate of Borrower or any Guarantor, or any general partner, member, principal or Affiliate thereof, upon terms and conditions that are commercially reasonable and substantially similar to those that would be available on an arm's-length basis with third parties.
- (xiii) It will not maintain its assets in such a manner that will be costly or difficult to segregate, ascertain or identify its individual assets from those of any other Person.
- (xiv) It will not assume or guaranty (excluding any guaranty that has been executed and delivered in connection with the Note) the debts or obligations of any other Person, hold itself out to be responsible for the debts of another Person, pledge its assets to secure the obligations of any other Person or otherwise pledge its assets for the benefit of any other Person, or hold out its credit as being available to satisfy the obligations of any other Person.
- (xv) It will not make or permit to remain outstanding any loans or advances to any other Person except for those investments permitted under the Loan Documents and will not buy or hold evidence of indebtedness issued by any other Person (other than cash or investment-grade securities).
- (xvi) Reserved.
- (xvii) It will hold itself out to the public as a legal entity separate and distinct from any other Person and conduct its business solely in its own name, will correct any known misunderstanding regarding its separate identity and will not identify itself or any of its Affiliates as a division or department of any other Person.
- (xviii) Reserved.
- (xix) Reserved.

(xx) It will pay (or cause the Property Manager to pay on behalf of Borrower from Borrower's funds) its own liabilities (including salaries of its own employees and any fair and reasonable allocated portion of shared expenses with Affiliates) from its own funds; provided, however, nothing in this Section 6.13(a)(xx) will require any member or partner of Borrower or any Borrower Principal to make any equity contribution to Borrower.

(xxi) Reserved.

(xxii) Reserved.

(xxiii) Reserved.

(xxiv) Reserved.

(xxv) Reserved.

(xxvi) Reserved.

(xxvii) Reserved.

(xxviii) Reserved.

(b) Reserved.

(c) Effect of Transfer on Single Purpose Entity Requirements. Notwithstanding anything to the contrary in this Loan Agreement, no Transfer will be permitted under Article VII unless the provisions of this Section 6.13 are satisfied at all times.

C. Section 6.55 is deleted and replaced with the following:

6.55 Adequate Capitalization. Borrower will 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, it will pay its debts and liabilities from its own assets as the same become due; provided, however, nothing in this Section 6.55 will require any member or partner of Borrower or any Borrower Principal to make any equity contribution to Borrower.

RIDER TO MULTIFAMILY LOAN AND SECURITY AGREEMENT
RATE CAP AGREEMENT AND RATE CAP AGREEMENT RESERVE FUND

(Revised 3-1-2021)

The following changes are made to the Loan Agreement which precedes this Rider:

- A. Section 3.04 is deleted and replaced with the following:

3.04 Cap Agreement and Cap Collateral Assignment.

- (a) Cap Agreement. To protect against fluctuations in interest rates, Borrower must obtain and maintain a Cap Agreement at all times so long as the Loan is outstanding. The initial Cap Agreement must be successfully bid no later than the Closing Date and be effective for an initial term beginning on or before the Closing Date and ending not earlier than the third anniversary of the Closing Date. The initial Cap Agreement must be in a Notional Amount equal to the principal amount of the Loan on the Closing Date and have a Strike Rate that does not exceed the Original Strike Rate. The Cap Agreement, including any Replacement Cap Agreement, must be from a Cap Provider, be in a form acceptable to Lender, and obligate the Cap Provider to make monthly payments directly to Lender or to Loan Servicer on behalf of Lender in an amount equal to the excess of (i) the interest on the Notional Amount at the Rate Cap Index Rate over (ii) interest on the Notional Amount at the Strike Rate.
- (b) Replacement Cap Agreement. At least 60 days prior to the date on which an existing Cap Agreement (including the initial Cap Agreement) terminates, Borrower must give Notice to and provide evidence satisfactory to Lender that Borrower will deliver a Replacement Cap Agreement. Borrower must ensure that the Replacement Cap Agreement is in full force and effect not later than the day immediately following the expiration of the then-existing Cap Agreement. Any Replacement Cap Agreement must satisfy the requirements for a Cap Agreement in this Loan Agreement and (i) have a term expiring not earlier than one year from its effective date, (ii) have a Strike Rate that does not exceed the Original Strike Rate, and (iii) be in a Notional Amount equal to the outstanding principal balance due under the Note on the effective date of the Replacement Cap Agreement.
- (c) Attorneys' Fees and Costs. Borrower must pay or reimburse Lender, upon demand, for all costs and expenses in connection with the acquisition and preparation of the initial Cap Agreement and any Replacement Cap Agreement, including (i) all Attorneys' Fees and Costs, and (ii) the cost of the cap broker, if any.

- (d) Cap Collateral. To secure Borrower's payment obligations under the Loan, Borrower grants to Lender a security interest in the Cap Collateral, including any Replacement Cap Agreement.

B. Section 4.07 is deleted and replaced with the following:

4.07 Rate Cap Agreement Reserve Fund. As a condition to making the Loan, Lender has required Borrower to establish the Rate Cap Agreement Reserve Fund to ensure that adequate funds are available for, among other things, the purchase, if applicable, of any Replacement Cap Agreement.

- (a) Deposits to Rate Cap Agreement Reserve Fund. If the initial Cap Agreement terminates prior to the Maturity Date, Lender will establish the Rate Cap Agreement Reserve Fund on the Closing Date. Commencing on the date the first installment of principal and/or interest is due under the Note and continuing on the same day for each successive month until the purchase of the last required Replacement Cap Agreement, Borrower must pay to Lender an amount equal to the Rate Cap Reserve Deposit.
- (b) Adjustments to Rate Cap Reserve Deposit. Lender will recompute the amount of the Rate Cap Reserve Deposit every **six (6)** months based on the anticipated outstanding principal balance due under the Note immediately prior to termination of the then-existing Cap Agreement. Lender will provide Notice to Borrower of any revised Rate Cap Reserve Deposit.
- (c) Disbursements from Rate Cap Agreement Reserve Fund. Lender will apply the funds in the Rate Cap Agreement Reserve Fund to the cost of any Replacement Cap Agreement, unless an Event of Default has occurred and is continuing, in which case Lender at its option may apply such funds to the Indebtedness in any amount and in any order as Lender determines in Lender's Discretion. To the extent there are funds in the Rate Cap Agreement Reserve Fund in excess of the cost of the Replacement Cap Agreement, such funds may be applied to pay Attorneys' Fees and Costs related to the Replacement Cap Agreement and to pay the cap broker, if any. In the event that, for any reason, there are insufficient funds in the Rate Cap Agreement Reserve Fund to purchase a Replacement Cap Agreement, Borrower must fund the amount of any such deficiency, including amounts necessary to pay Attorneys' Fees and Costs and the cost of the cap broker, if any.
- (d) Termination of Rate Cap Agreement Reserve Fund. Upon purchase by Borrower of a Replacement Cap Agreement with an expiration date on or after the Maturity Date, Borrower will no longer be required to make Rate Cap Reserve Deposits. Any funds remaining in the Rate Cap Agreement Reserve Fund will be returned to Borrower upon the earlier to occur of (i) purchase of a Replacement Cap Agreement with a termination date on or

after the Maturity Date, provided no Event of Default has occurred and is continuing, or (ii) payment in full of the Indebtedness.

C. Section 5.22 is deleted and replaced with the following:

5.22 Cap Collateral.

- (a) Obligation to Make Cap Payments. Borrower has instructed the initial Cap Provider and any guarantor of the initial Cap Provider's obligations to make Cap Payments directly to Lender or to Loan Servicer on behalf of Lender.
- (b) Dodd-Frank Act. Borrower has complied with the applicable requirements of the Dodd-Frank Act in purchasing the initial Cap Agreement.

D. Section 6.18 is deleted and replaced with the following:

6.18 Cap Collateral.

- (a) Obligation to Make Payments. Borrower will instruct each Cap Provider and any guarantor of a Cap Provider's obligations to make Cap Payments directly to Lender or to Loan Servicer on behalf of Lender.
- (b) Dodd-Frank Act. Borrower will comply with the applicable requirements of the Dodd-Frank Act in purchasing any Replacement Cap Agreement.

E. The following definitions are added to Article XII:

"Dodd Frank Act" means the Dodd-Frank Wall Street Reform and Consumer Protection Act.

"Notional Amount" means the dollar amount designated in the Cap Agreement as the "Notional Amount" which must be (i) with respect to the initial Cap Agreement, an amount equal to the principal amount of the Loan on the Closing Date, and (ii) with respect to any Replacement Cap Agreement, an amount equal to the outstanding principal balance due under the Note on the commencement date of the Replacement Cap Agreement.

"Original Strike Rate" means 3.85%.

"Rate Cap Index Rate" means the published variable rate index designated in the Cap Agreement as the "Floating Rate Option," which Rate Cap Index Rate must be **30-Day Average SOFR**, or, with regard to any Replacement Cap Agreement, such other variable rate index, together with any applicable adjustment factor, as Lender may require prior to the acquisition of a Replacement Cap Agreement.

"Rate Cap Reserve Deposit" means a monthly amount payable by Borrower sufficient to accumulate funds in an amount equal to 125% of the amount estimated by Lender to be

sufficient to purchase, immediately prior to termination of the then-existing Cap Agreement, a Replacement Cap Agreement (i) expiring on the earlier of the date that is two years after the termination date of the then-existing Cap Agreement or the Maturity Date, (ii) having a Notional Amount equal to the outstanding principal balance due under the Note on the commencement date of the Replacement Cap Agreement, and (iii) having a Strike Rate not greater than the Original Strike Rate.

“Strike Rate” means a fixed rate of interest under the Cap Agreement.

RIDER TO MULTIFAMILY LOAN AND SECURITY AGREEMENT

SECTION 8 HOUSING ASSISTANCE PAYMENTS RESERVE

(Revised 10-1-2020)

The following changes are made to the Loan Agreement which precedes this Rider:

A. Section 4.08 is deleted and replaced with the following:

4.08 Section 8 Housing Assistance Payments Reserve. As a condition to making the Loan, Lender has required Borrower to establish the Section 8 Housing Assistance Payments Reserve to ensure that adequate funds are available for, among other things, payment of any Projected Deficit. Only Lender will have the right to make withdrawals from the Section 8 Housing Assistance Payments Reserve, in accordance with the terms of this Loan Agreement.

- (a) Deposits to Section 8 Housing Assistance Payments Reserve. Borrower has established the Section 8 Housing Assistance Payments Reserve as of the date of this Loan Agreement by making the Initial HAP Deposit. If the Monthly HAP Deposit is greater than zero, then beginning on the date the first Monthly Payment is due and continuing on the same day of each successive month until the Section 8 Housing Assistance Payments Reserve equals 6 scheduled Monthly Payments or the sum of **\$598,681.98**, Borrower must pay the Monthly HAP Deposit to Lender for deposit into the Section 8 Housing Assistance Payments Reserve, together with Borrower's Monthly Payments.
- (b) Use of Section 8 Housing Assistance Payments Reserve. Subject to the pledge and security interest, and other rights of Lender set forth in this Loan Agreement, the Section 8 Housing Assistance Payments Reserve will be maintained for the purpose of assuring Lender that adequate funds are available for the payment of any Projected Deficit during the Section 8 Housing Assistance Payments Reserve Period.
- (c) Reserved.
- (d) Disbursements from the Section 8 Housing Assistance Payments Reserve. Lender may release funds from the Section 8 Housing Assistance Payments Reserve at the discretion of Lender upon the occurrence of all of the following conditions:
 - (i) The HAP Contract has expired or is not renewed.

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Rider to Multifamily Loan and Security Agreement
Section 8 Housing Assistance Payments Reserve

- (ii) Borrower has insufficient funds from the operation of the Mortgaged Property to pay the Indebtedness when due, including all Impositions, as demonstrated by Borrower to Lender's satisfaction.
- (iii) There is no Event of Default under the Loan Documents.

Lender will first apply the funds in the Section 8 Housing Assistance Payments Reserve as required to pay the Indebtedness and other sums when due and will thereafter release such funds to Borrower as are necessary for the operation of the Mortgaged Property.

(e) Termination. If not sooner terminated by written agreement of Borrower and Lender, the Section 8 Housing Assistance Payments Reserve will terminate upon the first to occur of the following:

- (i) Payment in full of the Indebtedness.
- (ii) If the HAP Contract has expired or is not renewed, and no legal requirement exists to rent units to specific residents or comply with any affordability restrictions, upon receipt of a written request from Borrower, with evidence satisfactory to Lender that all of the following conditions have been met:
 - (A) The Mortgaged Property has converted to market rate rents (market rate rent will mean the rent that is comparable to the current rent received for similar, unsubsidized properties in the same area as the Mortgaged Property) and has achieved the then-Current Program Minimum DSCR.
 - (B) The Mortgaged Property is in satisfactory physical condition as determined by Lender, based on the most recent inspection conducted by Lender or Loan Servicer.
 - (C) Borrower has provided Lender with rent rolls, financial statements and any other items as Lender may request in order to determine that the Mortgaged Property has achieved 90% occupancy at market rate rents for 90 consecutive days after the expiration of all payments under the HAP Contract.

- (D) There is no Event of Default under the Financing Documents.
- (iii) Upon receipt of a written request from Borrower, with evidence satisfactory to Lender that all of the following conditions have been met:
 - (A) The Mortgaged Property is subject to a new Long-Term HAP Contract and has achieved the then-Current Program Minimum DSCR.
 - (B) The Mortgaged Property is in satisfactory physical condition as determined by Lender, based on the most recent inspection conducted by Lender or Loan Servicer.
 - (C) Borrower has provided Lender with rent rolls, financial statements and any other items as Lender may request in order to determine that the Mortgaged Property has achieved 90% occupancy for 90 consecutive days after the effective date of the new Long-Term HAP Contract.
 - (D) There is no Event of Default under the Loan Documents.
- (iv) The Section 8 Housing Assistance Payments Reserve has been reduced to zero.

Within 30 days after termination of the Section 8 Housing Assistance Payments Reserve, Lender will pay to Borrower all funds remaining in the Section 8 Housing Assistance Payments Reserve.

- (f) For purposes of this Section 4.08, **“Projected Deficit”** means a deficit in the NOI such that the NOI is not sufficient to pay the Monthly Payment. In calculating a Projected Deficit for any requirements of this Section 4.08, the following terms will have the meanings set forth below:

“Acceptable Other Income” means the lesser of Actual Acceptable Other Income or the Underwritten Acceptable Other Income.

“Actual Acceptable Other Income” means the averaged and annualized amount of any other income derived from the Mortgaged Property, other than Gross Potential Rent and any interest income, that has been collected consistently by Borrower during the preceding 3 months (T-3) and that is acceptable to and approved by Lender in Lender’s sole discretion.

“Actual Fixed Expenses” means: (i) Taxes for the Mortgaged Property, (ii) Insurance premiums, and (iii) expenses for utilities, water and sewer for

the preceding 3 months (T-3). Capital expenditures are specifically excluded from this definition. For the purposes of determining the amount of Taxes for the Mortgaged Property, Lender will have the right in its discretion to base its determination on the actual taxes in place, the next year's bill, or any assessed value published by the applicable Governmental Authority on its website that will take effect within the 12 months following the date of determination. For the purposes of determining the amount of Insurance premiums, Lender may base its determination on the actual premiums in place or the premiums to be in effect within the next 12 months, if known.

"Actual Operating Expenses" means operating expenses for the Mortgaged Property for the preceding 3 months (T-3), including the expenses for repair and maintenance of the Mortgaged Property, the Management Fee, payroll expenses, general and administrative expenses, and other miscellaneous operating expenses. Capital expenditures are specifically excluded from this definition.

"Bad Debt" means that portion of Gross Potential Rent which is assumed not to be collected by Borrower due to tenant non-payment.

"Concessions" means: (i) rental abatements, (ii) "free" rent, (iii) inducements, and (iv) other incentives.

"Effective Gross Income" means the positive annualized amount of the Gross Potential Rent, net of the Concessions, subject to the Vacancy Rate, minus Bad Debt, plus the Acceptable Other Income.

"Expenses" means the Fixed Expenses plus Operating Expenses plus the annualized amount of the monthly Replacement Reserve Deposit (even if such deposit is deferred).

"Fixed Expenses" means the greater of: (i) the annualized Actual Fixed Expenses for the Mortgaged Property, or (ii) the Underwritten Fixed Expenses.

"Gross Potential Rent" means the sum of: (i) monthly rents actually collected from tenants under residential Leases identified in each of the most current rent rolls, and (ii) achievable monthly rents attributable to residential vacant units, calculated at market rents, as determined by Lender in Lender's Discretion. (Market rents attributable to employee and model units may be included in the calculation of Gross Potential Rent if they are also included in operating expenses.)

"Management Fee" means the Property Manager's contractual management fee at the time of the applicable calculation.

“NOI” means the positive, annualized amount by which Effective Gross Income exceeds Expenses.

“Operating Expenses” means the greater of: (i) the annualized Actual Operating Expenses for the Mortgaged Property, or (ii) the Underwritten Operating Expenses.

“Underwritten Acceptable Other Income” means \$3,381.00.

“Underwritten Fixed Expenses” means \$364,481.00.

“Underwritten Management Fee” means a fee equal to 5.0% of Effective Gross Income.

“Underwritten Operating Expenses” means \$276,997.00, which includes the Underwritten Management Fee.

“Vacancy Rate” means the greater of: (i) actual vacancy, or (ii) 5%, as determined by Lender. Units occupied by employees and model units will be deemed occupied for purposes of calculating the Vacancy Rate.

B. The following definitions are added to Article XII:

“Current Program Minimum DSCR” means the minimum debt service coverage ratio required by Freddie Mac for new loans originated under the Freddie Mac loan program pursuant to which the Loan was made by the originating lender and purchased by Freddie Mac (the **“Loan Program”**) or, if Freddie Mac has terminated the Loan Program, the minimum debt service coverage ratio required by Freddie Mac for new loans originated under the Loan Program that existed immediately prior to such termination.

“Initial HAP Deposit” means the amount of \$99,780.33 deposited into escrow with Lender as of the date of this Loan Agreement.

“Long-Term HAP Contract” means, if the remaining term of the Loan is 20 years or less, a HAP Contract with a term equal to or greater than the remaining term of the Loan and, if the remaining term of the Loan is greater than 20 years, a HAP Contract with a term of at least 20 years, in any case with contract rents equal to or greater than the HAP Contract that immediately preceded the new HAP Contract.

“Monthly HAP Deposit” means the sum of \$0.00.

“Monthly Payment” means the monthly payment of principal and interest or interest only due pursuant to the terms of the Note.

“Projected Deficit” is defined in Section 4.08(f).

“Section 8 Housing Assistance Payments Reserve” means the total of (i) the Initial HAP Deposit, and (ii) all Monthly HAP Deposits.

“Section 8 Housing Assistance Payments Reserve Period” means the period during which Lender holds the Section 8 Housing Assistance Payments Reserve.

RIDER TO MULTIFAMILY LOAN AND SECURITY AGREEMENT

COVID-19 ADDITIONAL REQUIREMENTS

(Revised 5-21-2021)

The following changes are made to the Loan Agreement which precedes this Rider:

- A. A new Section 4.04(l) is added as follows:
- (l) Deposit for Deferred Property Replacements. This Section 4.04(l) will apply only if a Deferred Property Replacement Deposit is required pursuant to Section 6.63(b).
 - (i) Borrower will pay the Deferred Property Replacement Deposit to Lender for deposit into the Replacement Reserve Fund as set forth in Section 6.63(b). The Deferred Property Replacement Deposit will be available to reimburse Borrower only for the costs incurred in connection with the completion of any Deferred Property Replacements. Additionally, Lender will have the right, but not the obligation, to deduct from the Replacement Reserve Fund the costs of any Deferred Property Inspections and Deferred Property Reports.
 - (ii) Lender will hold and disburse the Deferred Property Replacement Deposit in accordance with the terms and conditions of this Loan Agreement. The Deferred Property Replacement Deposit will not alter or reduce the amount of any Monthly Deposits under this Loan Agreement.
 - (iii) Any funds from the Deferred Property Replacement Deposit remaining in the Replacement Reserve Fund after the Deferred Property Replacements are complete in a manner satisfactory to Lender will be returned to Borrower, after deduction of any unpaid costs and expenses for the Deferred Property Inspections and the Deferred Property Reports.
- B. Reserved.
- C. The following new subsection (v) is hereby added to Section 6.07(c) of the Loan Agreement:
- (v) Without limiting any of Lender's rights to request and receive information under this Section 6.07, Borrower acknowledges and agrees that as a result of the global pandemic of COVID-19, commonly referred to as the coronavirus, Lender intends to require that Borrower deliver a current Rent Schedule, current monthly collections information (including unit-by-unit detail with delinquencies on a 30, 60, and 90+ day basis), a current trailing 12-month statement of income and expenses for the Mortgaged Property, and other statements, schedules and reports

as needed prior to Securitization. Borrower will cooperate with such requirements in accordance with the terms of this Section 6.07.

D. The following new Sections 6.63, 6.64 and 6.65 are hereby added to Article VI:

6.63 Deferred Property Inspections and Deferred Property Replacements.

- (a) Borrower acknowledges and agrees that Lender and/or its consultants will make entry upon and conduct Deferred Property Inspections of the Mortgaged Property as soon as practicable following the Closing Date. Borrower will cooperate with Lender and/or its consultants in conducting any Deferred Property Inspections in accordance with this Section and in Section 6.06(a) and as otherwise set forth in this Loan Agreement. All costs and expenses associated with the Deferred Property Inspections and the Deferred Property Reports will be borne by Borrower.
- (b) Following completion of the Deferred Property Inspections and Lender's receipt of the Deferred Property Reports, Lender will determine a list of the Deferred Property Replacements and the applicable Deferred Property Replacement Completion Date. If the aggregate cost of all Deferred Property Replacements exceeds the Deferred Property Replacement Threshold, Borrower will be required to deposit with Lender the Deferred Property Replacement Deposit upon Notice by Lender, which will be deposited in accordance with Section 4.04(l).
- (c) If Lender determines in Lender's Discretion based on the Deferred Property Reports that the Replacement Reserve Monthly Deposit is insufficient, then Borrower will be required to deposit with Lender an amount equal to the Replacement Reserve Catch-Up Payment upon Notice by Lender, which will be deposited into the Replacement Reserve Fund.
- (d) After Lender delivers Notice identifying the Deferred Property Replacements and the applicable Deferred Property Replacement Completion Date to Borrower, the Deferred Property Replacements and the applicable Deferred Property Replacements Completion Date will be considered a part of this Loan Agreement as if they were originally listed in this Loan Agreement. However, in Lender's Discretion, Lender may require Borrower to enter into a formal amendment to this Loan Agreement to more fully set forth the Deferred Property Replacements and the applicable Deferred Property Replacement Completion Date.
- (e) Borrower must complete the Deferred Property Replacements on or before the Deferred Property Replacements Completion Date. If a Deferred Property Replacement Deposit is not required, or if the Deferred Property Replacement Deposit is insufficient to pay for the costs of the Deferred

Property Replacements, Borrower must pay all amounts required for the Deferred Property Replacements from Borrower's own funds.

6.64 Duty to Cooperate; Requirement to Amend Loan Documents. Borrower must use diligent and commercially reasonable efforts to cooperate with obtaining the Deferred Property Reports and Deferred Property Inspections. If any Deferred Property Inspection or Deferred Property Report contains information that is unacceptable to Lender in its sole discretion, such cooperation must include entering into, and causing Guarantor to enter into, such amendments of the Loan Documents as may be reasonably required by Lender in connection therewith, taking into account Lender's underwriting practices, policies and requirements with respect to such item. Borrower acknowledges and agrees that, in connection with any such amendments of the Loan Documents, Borrower will pay all reasonable Attorneys' Fees and Costs and expenses incurred by Lender and Loan Servicer, including any fees charged by the Rating Agencies, if applicable. Any such amounts payable by Borrower under this Loan Agreement will be deemed a part of the Indebtedness, will be secured by the Security Instrument and will bear interest at the Default Rate if not fully paid within 10 days of written demand for payment.

6.65 Special Provisions. Any Special Provisions set forth on Exhibit Q to this Agreement are incorporated by reference into this Agreement

E. The following new Section 6.66 is hereby added to Article VI:

6.66 CARES Act. Without limitation of any other provision of this Loan Agreement, Borrower must remain in compliance with all other terms and conditions of the Loan Documents and at all times comply with all laws, ordinances, rules, regulations, and requirements of any Governmental Authority having jurisdiction over the Mortgaged Property, including without limitation the *Coronavirus Aid, Relief, and Economic Security Act* ("CARES Act").

F. Sections 9.01(cccc), 9.01(dddd) and 9.01(eeee) are deleted and replaced with the following:

(cccc) Borrower fails to cooperate with Lender with respect to the Deferred Property Inspections.

(dddd) Borrower fails to complete the Deferred Property Replacements on or before the Deferred Property Replacement Completion Date.

(eeee) Borrower fails to pay the Deferred Property Replacement Deposit or the Replacement Reserve Catch-up Payment when due.

G. The following definitions are added to Article XII, or amend and restate existing definitions in Article XII, as applicable:

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“Deferred Property Inspections” means the inspections of the Mortgaged Property to be conducted by Lender and/or its consultants on or after the Closing Date in connection with those Incomplete Loan Items with Deferred Property Inspections, as identified on Exhibit Q.

“Deferred Property Replacement Deposit” means 125% of the cost of the Deferred Property Replacements.

“Deferred Property Replacement Threshold” means that the total cost of the Deferred Property Replacements is, in the aggregate, \$25,000 or 0.25% of the original principal balance of the Loan, whichever is greater.

“Deferred Property Replacements” means, collectively, those repairs or replacements deemed necessary by Lender following the completion of any Deferred Property Inspections and Lender’s receipt and review of the Deferred Property Reports.

“Deferred Property Replacements Completion Date” means the completion date for the Deferred Property Replacements as determined by Lender following the completion of any Deferred Property Inspections and Lender’s receipt of the Deferred Property Reports.

“Deferred Property Reports” means the updates to all the Incomplete Loan Items following the completion of the Deferred Property Inspections, the re-opening of governmental offices, or otherwise after the Closing Date.

“Incomplete Loan Items” mean those items set forth on Exhibit Q to this Loan Agreement.

“Replacement Reserve Catch-Up Payment” means an amount to be determined by Lender based on the Deferred Property Reports to equal the aggregate deficiency in the Replacement Reserve Fund that will result over the term of the Loan as a result of the Replacement Reserve Monthly Deposit being insufficient.

“Special Post-Closing Requirements” means, with respect to any Incomplete Loan Item, the “Special Post-Closing Requirements” identified on Exhibit Q.

RIDER TO MULTIFAMILY LOAN AND SECURITY AGREEMENT

RECYCLED BORROWER

(Revised 10-1-2020)

The following changes are made to the Loan Agreement which precedes this Rider:

A. Section 5.40 is replaced with the following:

5.40 Recycled Borrower.

- (a) Underwriting Representations. Borrower represents that as of the date of this Loan Agreement, each of the following is true:
- (i) Borrower is and always has been duly formed, validly existing, and in good standing in the state of its formation and in all other jurisdictions where it is qualified to do business.
 - (ii) Borrower is not now, nor has it ever been, party to any lawsuit, arbitration, summons, or legal proceeding that is still pending or that resulted in a judgment against it that has not been paid in full, and there are no liens of any nature against Borrower except for tax liens not yet due.
 - (iii) Borrower is in compliance with all laws, regulations, and orders applicable to it and, except as otherwise disclosed in this Loan Agreement, has received all permits necessary for it to operate.
 - (iv) Borrower is not involved in any dispute with any taxing authority.
 - (v) Borrower has paid all taxes which it owes.
 - (vi) Borrower has never owned any real property other than the Mortgaged Property and personal property necessary or incidental to its ownership or operation of the Mortgaged Property and has never engaged in any business other than the ownership and operation of the Mortgaged Property.
 - (vii) Borrower has provided Lender with complete financial statements that reflect a fair and accurate view of the entity's financial condition.
 - (viii) If required by Lender, Lender has received a current Phase I environmental Site Assessment for the Mortgaged Property and

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Recycled Borrower

that Site Assessment has not identified any recognized environmental conditions that require further investigation or remediation.

- (ix) Borrower has no material contingent or actual obligations not related to the Mortgaged Property.
 - (x) Each amendment and restatement of Borrower's organizational documents has been accomplished in accordance with, and was permitted by, the relevant provisions of said documents prior to its amendment or restatement from time to time.
- (b) Separateness Representations. Borrower represents that from the date of its formation, each of the following is true:
- (i) Borrower has not entered into any contract or agreement with any Related Party Affiliate, except upon terms and conditions that are commercially reasonable and substantially similar to those available in an arm's-length transaction with an unrelated party.
 - (ii) Borrower has paid all of its debts and liabilities from its assets, including any fair and reasonable allocated portion of shared expenses with Affiliates.
 - (iii) Borrower has done or caused to be done all things necessary to observe all organizational formalities applicable to it and to preserve its existence.
 - (iv) Borrower has (A) filed its own tax returns (except to the extent that it has been a tax-disregarded entity not required to file tax returns under applicable law) and, if it is a corporation, has not filed a consolidated federal income tax return with any other Person, and (B) maintained all of its books, records, financial statements and bank accounts separate from those of any other Person.
 - (v) Borrower has not had its assets listed as assets on the financial statement of any other Person; provided, however, Borrower's assets may have been included in a consolidated financial statement of its Affiliate if each of the following conditions is met:
 - (A) Appropriate notation was made on such consolidated financial statements to indicate the separateness of Borrower from such Affiliate and to indicate that Borrower's assets and credit were not available to satisfy the debts and other obligations of such Affiliate or any other Person.

- (B) Such assets were also listed on Borrower's own separate balance sheet.
- (vi) Reserved.
 - (vii) Borrower has been, and at all times has held itself out to the public as, a legal entity separate and distinct from any other Person (including any Affiliate or other Related Party Affiliate).
 - (viii) Borrower has corrected any known misunderstanding regarding its status as a separate entity.
 - (ix) Borrower has conducted all of its business and held all of its assets in its own name.
 - (x) Borrower has not identified itself or any of its affiliates as a division or part of the other.
 - (xi) Reserved.
 - (xii) Borrower has not commingled its assets with those of any other Person and has held all of its assets in its own name.
 - (xiii) Borrower has not guaranteed or become obligated for the debts of any other Person.
 - (xiv) Borrower has not held itself out as being responsible for the debts or obligations of any other Person.
 - (xv) Reserved.
 - (xvi) Borrower has not pledged its assets to secure the obligations of any other Person.
 - (xvii) Borrower has maintained adequate capital in light of its contemplated business operations.
 - (xviii) Reserved.
 - (xix) Reserved.
 - (xx) Borrower has not incurred any indebtedness that is still outstanding other than Indebtedness that is permitted under the Loan Documents.

- (xxi) Borrower has not had any of its obligations guaranteed by an Affiliate or other Related Party Affiliate, except for guarantees that have been either released or discharged (or that will be discharged as a result of the closing of the Loan) or guarantees that are expressly contemplated by the Loan Documents.
- (xxii) None of the tenants holding leasehold interests with respect to the Mortgaged Property are an Affiliate of Borrower or other Related Party Affiliate.

B. The following definition is added to Article XII:

“Related Party Affiliate” means any of the Borrower’s Affiliates, constituents, or owners, or any guarantors of any of the Borrower’s obligations or any Affiliate of any of the foregoing.

EXHIBIT A

DESCRIPTION OF THE LAND

All that tract or parcel of land lying and being in Land Lot 203 of the 9th District of Peach County, Georgia and being more particularly described as follows:

BEGINNING at a concrete monument located on the eastern side of the right of way of Fagan Circle (40 foot right of way) south 01° 21' east, 1,161.43 feet along the eastern side of the right of way of Fagan Circle from the point of intersection of the eastern side of the right of way of Fagan Circle and the southern side of the right of way of

Spruce Street; thence north 88° 36' east along the southern boundary of property now or formerly owned by Marcus L. Hickson, Jr. and Marcus L. Hickson, III, 900.00 feet to a concrete monument; thence south 1° 21' east along the western boundary of property now or formerly owned by Marcus L. Hickson, Jr. and Marcus L. Hickson, III, a distance of 970.00 feet to a concrete monument; thence south 88° 36' west along the northern boundary of property now or formerly owned by Marcus L. Hickson, Jr. and Marcus L. Hickson, III, and Housing Authority of Fort Valley, 410.00 feet to a concrete monument; thence north 01° 21' west along the eastern boundary of property now or formerly owned by College Square Associates, a distance of 711.19 feet to a concrete monument; thence south 88° 36' west along the northern boundary of property now or formerly owned by College Square Associates, 490.00 feet to a concrete monument on the eastern side of the right of way of Fagan Circle; thence north 01° 21' west 258.81 feet along the eastern side of the right of way of Fagan Circle to the POINT OF BEGINNING; said tract containing 12.041 acres according to plat of survey prepared for Lakeview Apartments by Morrison J. Simms & Associates, dated July 12, 1971.

LESS AND EXCEPT any portion of the property set forth above contained with that certain Quitclaim Deed from Lakeview Associates, a Georgia limited partnership to Mayor & Council of the City of Fort Valley, Georgia, and the successors in office, dated October 31, 1979, filed December 21, 1979 and recorded Deed Book 52, Page 359 records of the Superior Court of Peach County, Georgia.

TOGETHER WITH easement rights and benefits created by and pursuant to that certain General Utility Easement for Natural Gas and Water Lines by and between College Square Associates, a Georgia limited partnership and Lakeview Associates, a Georgia limited partnership, dated December 23, 1971 and recorded in Deed Book 9, Page 401, records of the Superior Court of Peach County, Georgia.

The above-described property also being further described as follows:

ALL that tract or parcel of land lying and being in Land Lot 203 of the 9th District of Peach County, Georgia, being more particularly described as follows:

Beginning at an iron pin located on the eastern side of the right of way of Edward Street (40 foot right of way) south 01° 21' east, 1,221.43 feet along the eastern side of the right of way of Fagan Circle from the point of intersection of the eastern side of the right of way of Edward Street and the southern side of the right of way of Spruce Street; thence north 88° 36' 00" east, 200.00 feet to a point; thence north 01° 21' 00" west, 10.00 feet to a point; thence north 88° 36' 00" east, 700.00 feet to a point; thence south 01° 21' east a distance of 920.00 feet to a concrete monument; thence south 88° 36' west, 410.00 feet to a concrete monument; thence north 01° 21' west along the eastern boundary now of formerly owned by College Square Associates, a distance of 711.19 feet to a concrete monument; thence south 88° 36' west along the northern boundary of property now of formerly owned by College Square Associates, 490.00 feet to a concrete monument on the eastern side of the right of way of Edward Street; thence north 01° 21' west 198.81 feet along the eastern side of the right of way of Edward Street to the POINT OF BEGINNING; said tract containing 10.962 acres 477,517 square feet.

EXHIBIT B

MODIFICATIONS TO MULTIFAMILY LOAN AND SECURITY AGREEMENT

The following modifications are made to the text of the loan agreement that precedes this exhibit.

1. The term “**Capital Replacement**” as defined in Article XII of the Loan Agreement must be replaced in its entirety as follows:

“**Capital Replacement**” means the replacement of (i) those items recommended by the engineer and listed in Section VI of the Form 1105 or Form 1108 in the property condition report or physical risk report delivered in connection with the Loan, **(ii) any replacement reserve items specified in any Deferred Property Report, so long as Borrower has made the Replacement Reserve Catch-Up Payment in accordance with Section 6.63 of this Loan Agreement,** and (iii) any other items Lender may approve subject to any conditions that Lender may require, all in Lender’s sole and absolute discretion.

EXHIBIT C

REPAIR SCHEDULE OF WORK

Description of Priority Repair	Completion Date (Days after Origination)	Cost
Drive aisles and parking spaces require slurry seal coat and striping. Seal all parking areas and strip parking spaces as required including three designated accessible parking spaces.	1 year	\$4,250
Install compliant accessible parking signage at three provided accessible parking spaces.	1 year	\$937.50
Site signage has deteriorated wood and peeling paint. Repair and paint as needed.	1 year	\$312.50
The concrete drain inlet near the leasing office is damaged. Repair or replace as required.	1 year	\$625
Broken wall-mounted exterior light fixtures were observed in a few locations throughout the property. Survey all exterior building mounted lighting and repair or replace broken devices as required.	1 year	\$312.50
Sections of vinyl siding are loose, damaged or burned. Representative buildings include Buildings D and E. Survey all buildings for damaged siding and repair or replace as required.	1 year	\$625
Breezeway stairs and railings show signs of surface rust, broken tread connections, rusted anchor points and peeling paint. Representative areas include Building A and C. Repair steel sections as required and paint all metal surfaces.	1 year	\$6,250
Upper level breezeway composite decking shows signs of cracking in topping slabs and rusted sections steel decking below. Representative areas include Building A and C Survey all breezeway composite decks for damage, repair and paint as required	1 year	\$7,500
One broken window observed at Building D. Replace insulated window unit.	90 days	\$312.50
GFCI protected outlets were not observed in wet locations throughout the property. Survey all kitchens and bathrooms and install ground-fault protected devices as required by Code.	90 days	\$12,000
Carbon monoxide detectors were not present in observed dwelling units. Install CO detectors in each unit as required by Code.	90 days	\$3,000
During the site inspection, CSI did not observe the compliant quantity of fire extinguishers. All breezeway fire extinguishers are missing. The National Fire Protection Association (NFPA) fire	90 days	\$3,000

code requires fire extinguishers for apartment occupancies. Provide fire extinguishers as required under NFPA and jurisdiction's fire department codes and standard.

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EXHIBIT D

REPAIR DISBURSEMENT REQUEST

The undersigned requests from **WALKER & DUNLOP, LLC**, a Delaware limited liability company ("Lender") the disbursement of funds in the amount of \$ _____ ("Disbursement Request") from the Repair Reserve Fund established pursuant to the Multifamily Loan and Security Agreement dated as of September 24, 2021 and between Lender and the undersigned ("Loan Agreement") to pay for repairs to the multifamily apartment project known as Lakeview Apartments located at 1105 Edward Street, Fort Valley, Georgia 31030.

The undersigned represents and warrants to Lender that the following information and certifications provided in connection with this Disbursement Request are true and correct as of the date hereof:

1. Purpose for which disbursement is requested:

2. To whom the disbursement will be made (may be the undersigned in the case of reimbursement for advances and payments made or cost incurred for work done by the undersigned): _____
3. Estimated costs of completing the uncompleted Repairs as of the date of this Disbursement Request: _____
4. The undersigned certifies that each of the following is true:
 - (a) The disbursement requested pursuant to this Disbursement Request will be used solely to pay a cost or costs allowable under the Loan Agreement.
 - (b) None of the items for which disbursement is requested pursuant to this Disbursement Request has formed the basis for any disbursement previously made from the Repair Reserve Fund.
 - (c) All labor and materials for which disbursements have been requested have been incorporated into the Improvements or suitably stored upon the Mortgaged Property in accordance with reasonable and standard building practices, the Loan Agreement and all applicable laws, ordinances, rules and regulations of any governmental authority having jurisdiction over the Mortgaged Property.
 - (d) The materials, supplies and equipment furnished or installed for the Repairs are not subject to any Lien or security interest or that the funds to be disbursed pursuant to this Disbursement Request are to be used to satisfy any such Lien or security interest.

5. All capitalized terms used in this Disbursement Request without definition will have the meanings ascribed to them in the Loan Agreement.

IN WITNESS WHEREOF, the undersigned has executed this Disbursement Request as of the day and date first above written.

Date: _____

BORROWER:

VE LAKEVIEW LP, a
Georgia limited partnership

By: **VE LAKEVIEW GP LLC, a**
Georgia limited liability company, its General Partner

By: _____

Name: Michael Callaghan

Title: President

EXHIBIT E

WORK COMMENCED AT MORTGAGED PROPERTY

NONE.

EXHIBIT F
RESERVED

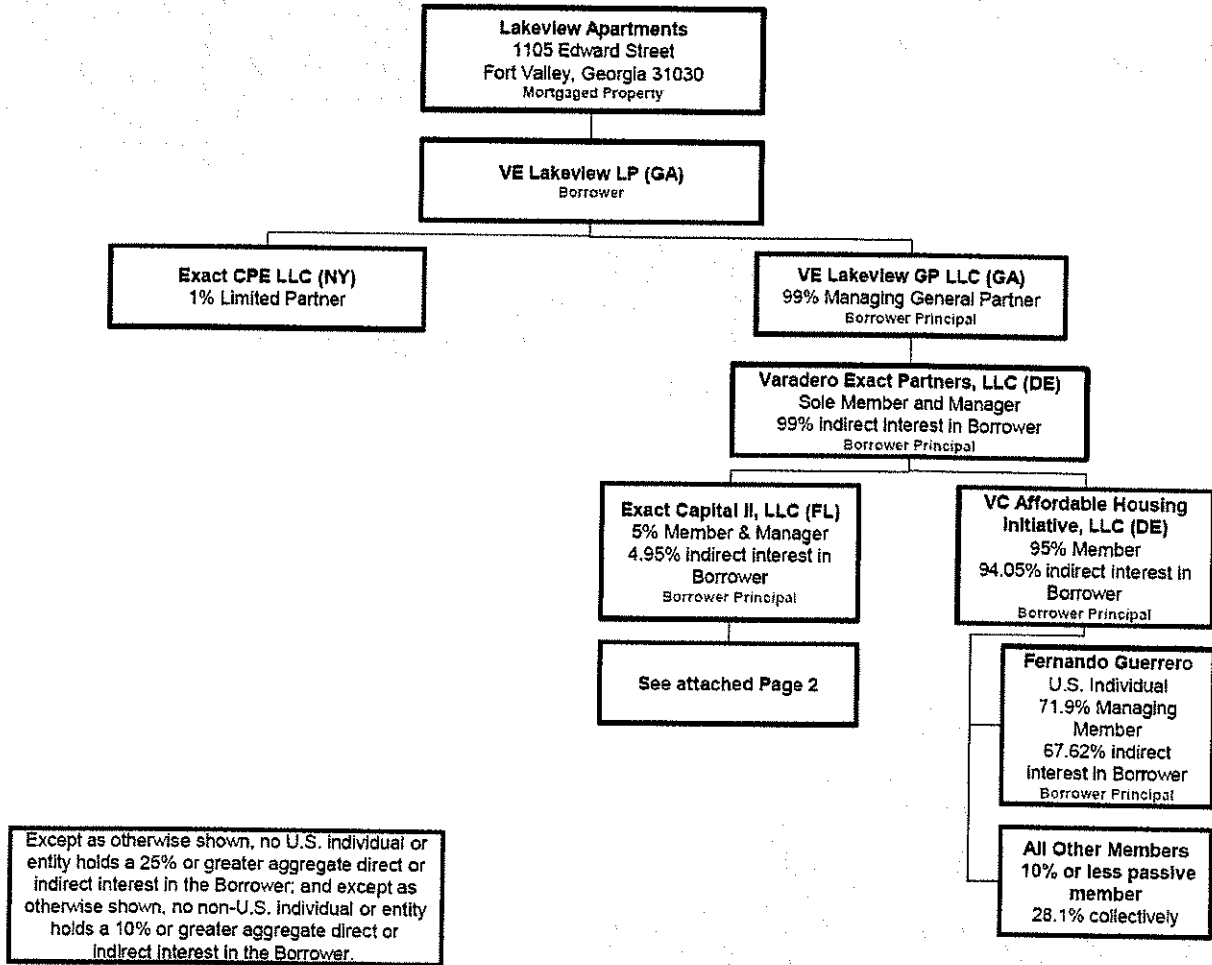
EXHIBIT G

DESCRIPTION OF GROUND LEASE

NOT APPLICABLE

EXHIBIT H

ORGANIZATIONAL CHART OF BORROWER AS OF THE DATE OF THIS LOAN AGREEMENT



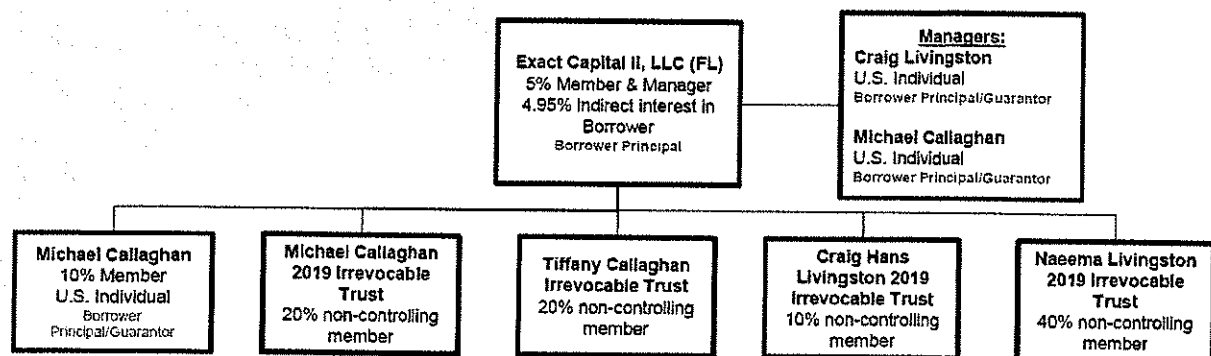


EXHIBIT I

DESIGNATED ENTITIES FOR TRANSFERS AND GUARANTOR(S)

Designated Entities for Transfers

**VE LAKEVIEW GP LLC
VARADERO EXACT PARTNERS, LLC
EXACT CAPITAL II, LLC**

Guarantor(s)

**CRAIG LIVINGSTON
MICHAEL CALLAGHAN**

EXHIBIT O

**BORROWER'S CERTIFICATE OF
PROPERTY IMPROVEMENT ALTERATIONS COMPLETION**

THIS BORROWER'S CERTIFICATE OF PROPERTY IMPROVEMENT ALTERATIONS COMPLETION ("Certificate") is made as of _____, 20___, by VE LAKEVIEW LP, a Georgia limited partnership ("Borrower") for the benefit of WALKER & DUNLOP, LLC, a Delaware limited liability company, and its successors and assigns (collectively, "Lender").

In connection with Section 6.09(e)(v)(G) of the Loan Agreement, Borrower certifies to Lender as follows:

[INSERT THE APPLICABLE SECTION (a) AND DELETE THE OTHER:]

[USE THE FOLLOWING IF ALL PROPERTY IMPROVEMENT ALTERATIONS THAT WERE COMMENCED HAVE BEEN COMPLETED]

- (a) All Property Improvement Alterations described in the Property Improvement Notice that were commenced have been completed. The completed Property Improvement Alterations and their completion dates are as follows:

Description of Property Improvement Alteration Commenced	Completion Date

[OR]

[USE THE FOLLOWING IF MINIMUM OCCUPANCY HAS DECREASED BELOW THE MINIMUM OCCUPANCY REQUIREMENT AND NOT ALL THE PROPERTY IMPROVEMENT ALTERATIONS THAT WERE COMMENCED HAD BEEN COMPLETED AT SUCH TIME]

- (a) All Property Improvement Alterations described in the Property Improvement Notice that resulted in individual residential units not being available for leasing that were commenced have been or will be completed in a timely manner. Such Property Improvement Alterations that were commenced and their completion dates and/or, if applicable, anticipated completion dates, are as follows:

Description of Property Improvement Alteration Commenced	Completion Date	Anticipated Completion Date	Comments

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[FOR ALL LOANS:]

- (b) The completed Property Improvement Alterations were completed in a good and workmanlike manner and in compliance with all laws (including, without limitation, any and all life safety laws, environmental laws, building codes, zoning ordinances and laws for the handicapped and/or disabled)
- (c) Should Borrower intend to contest any claim or claims for labor, materials or other costs, Borrower agrees to give Lender notice within 30 days of the existence of such claim or claims and certifies to Lender that payment of the full amount which might in any event be payable in order to satisfy such claim or claims will be made.

[INSERT THE FOLLOWING IF MINIMUM OCCUPANCY HAS DECREASED BELOW THE MINIMUM OCCUPANCY REQUIREMENT]

- (d) Any additional Property Improvement Alterations not yet commenced which would cause residential units to be unavailable for leasing have been suspended.

BORROWER:

VE LAKEVIEW LP, a
Georgia limited partnership

By: **VE LAKEVIEW GP LLC, a**
Georgia limited liability company, its General Partner

By: _____
Name: Michael Callaghan
Title: President

EXHIBIT P
RESERVED

EXHIBIT Q

SCHEDULE OF INCOMPLETE LOAN ITEMS AND SPECIAL POST-CLOSING REQUIREMENTS

INCOMPLETE LOAN ITEMS WITH DEFERRED PROPERTY INSPECTIONS		
Incomplete Loan Item	Special Post-Closing Requirements	Special Provisions
<p> <input checked="" type="checkbox"/> Lender Inspection <input type="checkbox"/> Appraisal* <input type="checkbox"/> Property Condition Report <input type="checkbox"/> Environmental Report <input type="checkbox"/> Physical Risk report (TAH Express/FRED) <input type="checkbox"/> Seismic Report (Level 1) <input type="checkbox"/> WDO Inspection (if applicable) <input type="checkbox"/> Green Report (Form 1106) <input type="checkbox"/> Seniors Housing Liability Assessment (if applicable) <input type="checkbox"/> Pre-construction Analysis Report (TAH) <input type="checkbox"/> Post-construction Analysis Report (TAH) <input type="checkbox"/> Other: <hr/> <input type="checkbox"/> None Applicable </p> <p>*Appraisal delivered must, at a minimum, be compliant with current FIRREA, including its Title XI regulations, which does not require an on-site inspection by appraiser</p>	<p>None Applicable</p>	<p> <input checked="" type="checkbox"/> <u>Lender Inspection</u>: The related Deferred Property Inspection may be satisfied by completion of Lender's annual servicing inspection if such annual servicing inspection takes place after the Closing Date. </p> <p> <input type="checkbox"/> <u>Environmental Report</u>: If an O&M Program for lead-based paint and/or asbestos-containing materials or an MMP is required as of the Closing Date, and the related Deferred Property Report indicates any such O&M Program and/or MMP is not required, Borrower will be automatically released from its obligation to establish and maintain such O&M Program and/or MMP, as applicable without the need of an amendment to this Loan Agreement. </p> <p> <input type="checkbox"/> <u>Seismic Report (Level 1)</u>: If earthquake insurance is required as of the Closing Date, and the related Deferred Property Report indicates earthquake insurance is not required pursuant to Lender's then-current insurance requirements, the earthquake insurance coverage required as of the Closing Date may be terminated and Borrower will be automatically released from its obligation to maintain earthquake insurance. </p>

The items below constitute Incomplete Loan Items for reasons unrelated to on-site inspections:

OTHER INCOMPLETE LOAN ITEMS		
Incomplete Loan Item	Special Post-Closing Requirements	Special Provisions
<input type="checkbox"/> Zoning Report (Incomplete Loan Item due to government office closure) <input type="checkbox"/> Other: <hr/> <input checked="" type="checkbox"/> None Applicable	None Applicable	<input type="checkbox"/> <u>Zoning Report</u> : If building, law and ordinance insurance is required as of the Closing Date, and the related Deferred Property Report indicates that the Mortgaged Property is legally conforming under the applicable zoning laws, ordinances and/or regulations in the Property Jurisdiction, the building, law and ordinance insurance required as of the Closing Date may be terminated and Borrower will be automatically released from its obligation to maintain building, law and ordinance insurance.